

Union County

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BY Kim Mitchell

ORDINANCE 2025-48

AN ORDINANCE REGULATING THE SITING AND PERMITTING OF WIRELESS TELECOMMUNICATIONS FACILITIES; PROVIDING FOR THE PURPOSE AND INTENT OF THE ORDINANCE; DEFINING TERMS; SPECIFYING APPLICABILITY OF THE ORDINANCE; ESTABLISHING REQUIREMENTS FOR NEW WIRELESS FACILITIES; PROVIDING FOR AN APPLICATION AND REVIEW PROCESS; DESIGNATING THE COUNTY MANAGER AS THE ADMINISTRATOR; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CO-LOCATION OF WIRELESS FACILITIES IF FEASIBLE; PROVIDING FOR ISSUANCE OF A PERMIT BY THE ADMINISTRATOR; PROVIDING FOR APPLICATION FEES BY SEPARATE RESOLUTION; PROVIDING FOR REMOVAL OF A WIRELESS FACILITY WHEN NO LONGER NEEDED; PROVIDING FOR RECORDATION AND AN EFFECTIVE DATE

WHEREAS, The Board of County Commissioners of Union County (hereinafter the County) has determined that the regulation of the siting of wireless telecommunications facilities is necessary to protect the health, safety and welfare of the citizens of the County;

WHEREAS, The County desires to minimize the negative impact Wireless Telecommunications Facilities may have on the citizens and real property use in the County by promoting the use of existing Wireless Telecommunications Facilities and by ensuring new Wireless Telecommunications Facilities are compatible with the existing character and environment of the location of the Facility;

WHEREAS, The County wishes to provide an efficient, stream-lined and fair process for the review and approval of potential Wireless Telecommunications Facilities;

WHEREAS, pursuant to NMSA 1978 § 4-37-1 et seq., and the Telecommunications Act of 1996, §704.47 U.S.C. § 332(c)(7), § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, and the New Mexico Wireless Consumer Advanced Infrastructure Act NMSA 1978 §§ 63-91-1 *et seq.*, the Board of County Commissioners of Union County is empowered to enact regulations regarding the location, placement, construction, design, and modification of Wireless Telecommunications Antennae, Towers and other Wireless Telecommunications Facilities on lands and properties within the County;

NOW, THEREFORE, BE IT ORDAINED AND PROCLAIMED BY THE BOARD OF COUNTY COMMISSIONERS OF UNION COUNTY, NEW MEXICO THAT THE CONTENTS OF THIS ORDINANCE 2025-48 BE IMPLEMENTED REGULATING THE

SITING AND PERMITTING OF WIRELESS TELECOMMUNICATION FACILITIES:

I. PURPOSE AND INTENT:

The purpose and intent of this Ordinance is to protect the health, safety, and welfare of the citizens of the County by minimizing the negative impact of Wireless Telecommunications Facilities (“Wireless Facility” or “Wireless Facilities”), by establishing a fair and efficient process for review and approval of applications according to Federal, State, and Local statutes and regulations, by encouraging the use of existing facilities, by promoting the improved appearance and functionality of any new facilities and ensuring that all new facilities are constructed using current technologies.

II. DEFINITIONS:

A. Abandonment – cessation of use of a Wireless Facility for wireless telecommunications activity for at least the minimum period specified by this Ordinance;

B. Administrator – A person appointed by the County Manager, including the County Manager, to accept, review and process applications under this Ordinance;

C. Antenna – Communications equipment that transmits or receives electromagnetic radio signals and that is used to provide wireless services;

D. Carrier on Wheels (COW) – A portable, self-contained wireless facility that can be moved to a location and set up to provide wireless services on a temporary or emergency base;

E. Collocate means to install, mount, maintain, modify, operate or replace one or more wireless facilities on, in or adjacent to a wireless support structure or utility pole;

F. Concealed Wireless Facility – A Wireless Facility that is designed to camouflage or hide the presence of antennas or towers so that the purpose of the Wireless Facility or wireless support structure is not readily apparent to casual observation;

G. Consultant – A person or firm with expertise in wireless telecommunications facilities who is under contract with Union County to provide assistance with the review of applications submitted pursuant to this Ordinance;

H. Eligible Facility request – A request for modification or colocation of an existing wireless tower that involves new transmission equipment or replacement of transmission equipment but does not include a substantial change of the existing structure;

I. Existing structure – A wireless support structure erected before the application for an eligible facility request, colocation, or modification is made under this Ordinance which is capable of supporting Wireless Facilities. The phrase includes but is not limited to transmission towers, communication towers, buildings, and water towers.

J. Fall Radius or Fall Zone – the area on which a wireless support structure may be expected to fall in the event of a structural failure as certified by a registered professional engineer in New Mexico as set forth in this Ordinance;

K. Permit means the written permission of Union County for a wireless provider to install, mount, maintain, modify, operate or replace a utility pole or to collocate a Wireless Facility on a utility pole or wireless support structure;

L. Small Wireless Facility means a wireless facility whose:

1. antennas are, or could fit, inside an enclosure with a volume of six or fewer cubic feet; and

2. other ground- or pole-mounted wireless equipment, not including the following, is twenty-eight or fewer cubic feet in volume:

- a. electric meter;
- b. concealment elements;
- c. telecommunications demarcation box;
- d. grounding equipment;
- e. power transfer switch;
- f. cutoff switch;
- g. vertical cable runs for the connection of power and other services; and
- h. elements required by an authority in accordance with Subsection H of Section 3 [63-9I-3 NMSA 1978] of the Wireless Consumer Advanced Infrastructure Investment Act;

L. Tower – a structure that is taller than it is wide, guided or freestanding, that supports one or more antennas;

M. Wireless Facility or Wireless Facilities –

1. means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: equipment associated with wireless communications; and

2. radio transceivers, antennas, coaxial or fiber-optic cables, regular and backup power supplies and comparable equipment, regardless of technological configuration;

3. includes a small wireless facility; and

4. does not include:

- a. the structure or improvements on, under or within which the equipment is collocated;

b. a wireline backhaul facility, coaxial cable or fiber-optic cable between wireless support structures or utility poles; or

c. coaxial or fiber-optic cable otherwise not immediately adjacent to, or directly associated with, an antenna;

N. Wireless Support Structure means a freestanding structure, including a monopole or guyed or self-supporting tower, but not including a utility pole.

III. APPLICABILITY:

A. This Ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in Section III B (“Exceptions”).

B. Exemptions:

1. Fire, police, department of transportation, or other public service facilities owned and operated by the County, local, state, or federal government are exempt from this Ordinance.
2. Any facilities expressly exempt for the jurisdiction's citing, building, and permitting authority.
3. Over-the-Air reception devices are exempt from this Ordinance, including the reception antennas for direct broadcast satellites (DBS), multi-channel, multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS), and other customer-end antennas that receive and transmit fixed wireless signals and are primarily used for reception.
4. Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, and other similar non-commercial telecommunications are exempt from this Ordinance.
5. FCC-licensed amateur radio facilities are partially exempt from Ordinance requirements except reasonable screening, Fall Zone, placement, construction, tower height, and health and safety standards of New Mexico state law.
6. Facilities that exclusively provide unlicensed spread spectrum technologies (such as IEEE 802.11a/b/g/n/ac/ax {Wi-Fi and Bluetooth}) where the Facility does not require a new tower.

IV. REQUIREMENTS.

A. The overall height of any wireless facility supporting structure shall not exceed 200

feet.

B. A wireless facility supporting structure with a proposed height of more than 200 feet or within the proximity of an airport as set forth in 47 CFR Sec. 17.7 (Antenna Structures Requiring Notification to the FAA) and Title 14 CFR Part 77 (Safe, Efficient Use, and Preservation of the Navigable Airspace) both as most recently amended, shall comply with the provisions of those regulations and provide the Administrator with a copy of either the Determination of Hazard to Navigation or the No Determination of Hazard to Navigation, whichever has been issued pursuant to 14 CFR § 77.9.

C. To provide for public safety in the event of an antenna catching fire or becoming structurally unstable and falling to the ground, all new antenna supporting structures shall be set back from the property line a distance equal to at least its potential fall radius plus ten percent (10%), as certified in writing by a New Mexico professional engineer duly licensed by the State of New Mexico Board of Licensure for Professional Engineers and Professional Surveyors. When computing the potential fall radius of a new antenna supporting structure, the following additional conditions shall apply:

1. an applicant shall take future modifications to its structure into consideration that could add height and thus increase the fall radius;
2. except for an antenna supporting structure sited in a residential zone, the potential fall radius shall, at a minimum, be at least the height of a tower and, in the event of its fall, cannot fall outside of the boundaries of the property on which it is sited;
3. no new antenna supporting structure shall be placed adjacent an existing tower such that if it fell to the ground, it would not fall against any existing antenna supporting structure; and
4. no new antenna supporting structure shall be placed adjacent an existing electrical power line, including its supporting tower(s), such that if it fell to the ground, it would not fall against the power line or its supporting tower(s).

D. Except for motion sensing security lighting to deter intruders, no lights, signals, or other illumination shall be permitted on any antenna supporting structure or ancillary appurtenances unless that lighting is required by the FAA or the FCC. If lighting is needed, the Applicant shall provide a detailed plan for necessary lighting consistent with State and Federal regulations. The Applicant shall also comply with any local or State "Night Skies" requirements.

E. A fence of at least six (6) feet but no more than eight (8) feet in height from finished grade shall be installed in order to completely enclose the base of the antenna supporting structure and associated equipment. Access to the antenna supporting structure shall be controlled by a locked gate. Any access gate(s) shall be secure and kept locked except for access by Applicant's personnel including any maintenance individuals.

F. All antenna supporting structures shall comply with the safety standards contained in

the American National Standards Institute of Telecommunications Industries Association (ANSI/TIA) document 222-G, "Structural Standard for Steel Antenna Towers and Supporting Structures," as amended, revised or supplemented by addenda. ANSJ/TIA-222-G addresses such factors that include, but are not limited to, default design parameters, wind speed resistance based on a three-second-gust wind speed, ice formation, climber safety, structure load details, mounting frames, classification of structures, earthquake design, topographic categories, ground surface exposure categories and soil parameters.

G. Antenna supporting structures shall be designed to accommodate future collocations.

H. New antenna supporting structures shall not be permitted unless the applicant indicates that the proposed antenna(s) cannot be accommodated on an existing building or structure or by construction of a stealth facility.

I. Wireless support structures shall be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained for the Tower's life.

J. Wireless Facilities shall contain a sign to provide adequate notification to persons in the immediate area of the possible presence of radio frequency radiation ("RF") or to control exposure to RF radiation within a given area. A sign of the same size shall also be installed to contain the site identification number and emergency phone number(s). The sign shall be on the fence, equipment shelter, or cabinet and be visible from an access point outside the secured site area. On tower sites, an FCC registration sign shall also be present. The signs shall not be lighted unless required by law, rule, or regulation. No other signage, including advertising, shall be permitted. The Applicant or assignee shall update the site identification number and emergency phone numbers of the Wireless Facility as displayed on the required sign within one month of any sale, assignment, or transfer.

V. PERMIT APPLICATION PROCESS AND OTHER REQUIREMENTS:

A. All Applicants for a Permit for a Wireless Facility shall obtain a permit prior to beginning construction or installation of a Wireless Facility and shall comply with the requirements set forth in this Ordinance.

B. An application for a permit pursuant to this Ordinance shall be submitted to the Administrator. The Administrator is authorized to review, analyze, evaluate, and grant, deny, or revoke Permits and to enforce the provisions of this Ordinance.

C. The Administrator is authorized to consult with consultants during the review of applications for Wireless Facilities.

D. Applications shall be processed as follows:

1. Pre-Application Conference: At the Administrator's discretion, applicants seeking a Permit pursuant to this Ordinance shall obtain and review this

Ordinance and meet with the Administrator, either electronically or in person, before submitting an application. Typically called for on more complex applications (new towers, 5G, etc.), the meeting will focus on the Ordinance requirements, processes, and method of submissions with the Applicant. The pre-application conference may also include the following at the discretion of the Administrator:

- a. A discussion of potential best locations for the Telecommunications Facility, taking into consideration the County's defined priorities that meet the Applicant's requirements for service. The application process may require an explanation for a selected location not using the highest priority available to the Applicant. The County's priorities (listed from highest to lowest) are:
 - i. On existing Towers or structures without increasing their height.
 - ii. On existing Towers or structures with a height increase.
 - iii. On County-owned properties.
 - iv. On industrial properties.
 - v. On commercial properties.
 - vi. On agricultural properties.
 - vii. On residential properties.
- b. A site visit.
- c. A determination of the type of application to be made;
- d. A discussion of the defined information to be provided in the application;
- e. A discussion of the specific application requirements that are needed for review and consideration by the Administrator. Requirements for the Application may vary based on the specific location, type of facility selected, and the potential impact to the County and its citizens, and;
- f. Any relief, waiver, variance or exemption from any Ordinance requirement that may be requested in the application. The burden of establishing extraordinary hardship and the need for relief, waiver, variance or exemption lies solely with the Applicant. No application shall be approved unless the Applicant provides convincing evidence that the request will have no significant effect on the health, safety, and welfare of

the County or its residents.

2. Online Application. The Applicant shall make application using the County's on-line application tool.
3. Visual Intrusion. All applications shall contain a demonstration that the Telecommunications facility will be sited to be the least visually intrusive, as reasonably possible.
4. Required Information. All applications shall contain the following information:
 - a. Identification of an Agent of the applicant, including the name, address, and telephone numbers of the designated Agent and his/her company;
 - b. Authorization of the Agent as an official and representative of the Applicant;
 - c. a project description which shall include a general description of the project and its proposed location and shall address all of the requirements set out in Art. IV;
 - d. Contact information including the name, address, and telephone number of the person or entity who will be responsible for the Applicant's construction and management of the project;
 - e. Contact information for the support structure project manager for the proposed location and contact information for any manager of the real property for the proposed site (e.g., building manager, property owner, tower owner);
 - f. Define the type of project (colocation, modification, new tower, etc.), and the specific site address and description of the project.
 - g. Tower/Wireless Facility Registration. An application shall include a Tower/Wireless Facility Registration. If a Tower/Wireless Facility Registration already exists for the proposed location, a Tower/Wireless Facility Registration Update shall be provided, if needed. The Tower/Wireless Facility Registration shall include:
 - i. Name, address, and telephone contact number for the tower owner;
 - ii. Name, address, and telephone contact number for the real property owner, if different than tower owner;
 - iii. Current number and identification of co-locators on the

tower/facility;

iv. Site name, number, and physical address;

v. Documentation and specifics regarding the agreement terms (other than financial) demonstrating Applicant's right, title, or interest in the real property where the facility is to be sited, including the name, address, and phone number of the property owner;

vi. Description of the tower/facility, including but not limited to height, Fall Zone, type of structure, and the number of existing co-locators;

vii. Verifiable copy of the current tower inspection report using ANSI/TIA-222-G (or newer), including the expiration date, the company performing inspection, and ANSI standard used;

viii. Contact information including name, address, and telephone number for the person or entity performing the most recent or current tower inspection;

ix. A copy of the Soils Study Report including but not limited to the date completed, person or entity name performing the Soils Study, project number, identification of the Professional Engineer providing certification of the study with New Mexico registration or license number of the Professional Engineer, and;

x. Any other information deemed necessary or required by the County.

5. Co-location. Applications for a modification, co-location, or use of an existing structure, without an increase of height or size, shall include:

a. Project name for the existing co-location site or project;

b. Names, addresses, and phone numbers of person or entity preparing the application;

c. A copy of the FCC license for the carrier and a signed statement from the owner or operator of the Facility attesting that the Facility complies with current FCC regulations; concerning radio frequency (RF), including a Certified Non-Ionizing Electromagnetic Radiation (NIER) report demonstrating full compliance. In cases where an installation of RF

equipment complies with the FCC criteria for exemption for NIER reporting, an RF Compliance Letter prepared and signed by a New Mexico State-licensed Professional Engineer (PE) shall be required. The RF Compliance Letter shall include the FCC ID of the RF equipment and the type of exemption, as allowed by FCC OET Bulletin 65 and FCC 19-126.

d. Certified Site Plans using ANSI/TIA-222-G (or newer), including the Professional Engineer's name and New Mexico registration/license number, physical description of the current configuration of the site, physical description of the proposed design of the site, contacts, Fall Zone, grounding plans, security, parking, turnarounds, description of the components including the sizes of the components to determine that the proposal is the least visibly intrusive design;

e. Certified Structural Analysis using ANSI/TIA-222-G (or newer), including identification of the Professional Engineer's name and registration/license number providing the Analysis, a copy of all calculations, reference documents and results, percent loading, that include all components, structures, and foundations per Rigorous Standards. Loading may not exceed 100%.

f. A performance bond in an amount set by the Administrator, to remain in place as long as the site remains active and in place and until the tower or facilities are removed as required by the Ordinance;

g. Copy of the Certificate of Insurance demonstrating that the requirements of the Ordinance are satisfied;

h. Identification of the general contractor(s) with proof of state licensure as required by the State of New Mexico, and;

i. Projected start and completion dates of construction.

6. Applications to install a new tower or telecommunications facility will include the following:

a. All information listed in Sections b. and c. above;

b. The number, type, and design of the tower(s) and antenna(s) proposed;

c. All reports, data, calculation, and design criteria which demonstrate the tower's capability to accommodate multiple users;

d. Demonstration of the Applicant's meaningful efforts to secure shared use of existing tower(s) or other structures within the defined

parameter of one (1) mile including but not limited to copies of written requests and responses for shared use;

e. Justification for the new facility including capacity information, the gap in coverage, or other information demonstrating rationale for the application;

f. A list of property owners and nearby homeowner associations, to include their addresses, within one-thousand five-hundred feet (1500') of the proposed site's property lines.

7. Public Hearing and Notification Requirements.

a. A public hearing shall be held by the Administrator, notice of which shall be published in accordance with the New Mexico Open Meetings Act and the annual Union County Notice of Meetings Resolution.

b. The Administrator shall schedule the public hearing only after finding that the Application is complete.

c. All Public Hearings pursuant to this Ordinance are to be conducted by the Administrator.

8. Applications to Install Small Wireless Facilities/Systems will include the following: The County's Small Wireless Facilities design requirements are set forth in Resolution #2025-45.

a. All information listed in Sections b. c. & d. above;

b. The entire system and any associated groups of Small Wireless facilities, within limits defined by the on-line application, may be included in a single application.

c. Each component of the system must be identified.

d. Each system's unique components must be shown and include all the relevant data to complete the process. However, all like (virtually identical) nodes may be demonstrated once but must consist of all the physical locations for each node.

9. Review of Application: The Administrator and the consultant(s) shall review the application within thirty (30) days of submission to determine if the application is complete and meets the requirements of this Ordinance. The County and the Applicant may, by a mutual written agreement, extend the period in which the review for completeness is conducted.

- a. Incomplete applications will not be processed;
- b. Applications submitted without the payment of the required fee shall be deemed incomplete and shall not be processed;
- c. **IF THE APPLICATION IS NOT COMPLETE:** The County shall notify the Applicant in writing or via email of the deficiencies in the application. Once the deficiencies are corrected, the application may be resubmitted without payment of additional fees.
- d. **IF A RESUBMITTED APPLICATION IS NOT COMPLETE:** Within ten (10) days of the resubmission of the application, the County shall notify the Applicant in writing or via email of any deficiencies in the resubmitted application. Once the deficiencies are corrected, the application may be resubmitted without payment of additional fees.
- e. **IF THE APPLICATION IS COMPLETE** and based on the review of the application, the Administrator may:
 - 1. Approve, approve with conditions or deny a Permit for the Wireless Facility;
 - 2. Issue a written decision within ten (10) days of deciding on the application.
 - 3. The decision of the Administrator shall be final.

10. Construction of the Proposed Facility: If an application is approved or approved with conditions, a Permit may be issued to the Applicant:

- a. The Applicant must comply with all requirements of the Permit;
- b. The Applicant will be required to meet and satisfy all applicable building codes and building inspection processes;
- c. The Permit shall not be assigned, transferred, or conveyed without written notification to and approval from the County within six (6) months;
- d. The Permit may be revoked, canceled, or terminated for violation of the Permit's conditions and provisions or for a material breach of this Ordinance;
- e. The County will provide the permit holder with written notice of an intent to revoke, cancel or terminate the Permit with identification of the

violation(s) and give the holder of the Permit with an opportunity for a hearing before the Administrator before revocation, cancellation or termination.

11. Completion of Construction: When the Applicant completes the project's construction, the Applicant shall notify the Administrator of the need for a final inspection. The Administrator or the consultant for the County will verify that the site is constructed in accordance with the application, meets all the requirements of the Ordinance, and that the applicant has paid all monies due to the County. If all requirements of this Ordinance and the Permit have been met, the County will issue a Certificate of Compliance to the Applicant that allows operational use of the site.

VI. APPLICATION FEES and OTHER REQUIREMENTS:

A. At the time a person submits an application for a Permit for a new Tower or requires an increase in height to an existing Tower or for co-locating on an existing Tower or other suitable structure, where no increase will occur in the height of the Tower or other appropriate structure, such Applicant shall pay a non-refundable application fee to the County.

B. In addition to the application fee, the County may retain the services of an expert consultant in connection with the processing and/or review of the application and the permitting and final inspection of site. The Applicant shall be responsible for reimbursing the County for all costs and amounts incurred by the County for such expert consultation.

C. The Applicant shall pay for the projected consultation costs to the County at the time of the application.

D. An application is incomplete until the Application Fee is paid, and the Applicant has paid the costs for the expert consultant.

E. The consultant shall provide the County with an invoice for the costs for the consultation. The amount invoiced by the consultant will be assessed to the Applicant as the Application Processing and Review Fee.

F. The Application Fees and Costs are defined by the Resolution associated with this Ordinance or as subsequently amended.

G. The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at their cost and expense, be obtain and file with the County a bond or other form of security acceptable to the County in at least the following amounts:

1. Colocation or modification of an existing tower: \$25,000
2. Small wireless facility: \$15,000
3. New tower or other structure: \$75,000

Such sureties shall assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Permit issued according to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Telecommunications Permit, and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed before the issuance of the original Special Use or Construction Permit.

H. A holder of a Permit hereunder shall secure and at all times maintain comprehensive general liability insurance or public liability insurance for personal injuries, death, and property damage and umbrella insurance coverage for the duration of the Permit in amounts as set forth below:

1. Comprehensive General Liability covering personal injuries, death, and property damage: \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate; Automobile Coverage: \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate;
2. Workers Compensation and Disability: Amount required by New Mexico state law;
3. The Comprehensive General liability insurance policy shall specifically include Union County and its officers, employees, agents, and consultants as additional named insureds;
4. Insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a "Best's" rating of at least A;
5. Insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least thirty (30) days prior written notice of the cancellation of the insurance;
6. Renewal or replacement policies or certificates shall be delivered to the County at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace;
7. The Permit Holder shall provide the County a copy of the policies/certificates

before construction and upon written request by the County.

VII. REMOVAL OF TOWER/ANTENNA/REVOCATION/DEFAULT:

A. Cessation of Operations/Abandonment/Disrepair: The County may require the removal of a Wireless Facility(ies) when: such item(s) with a Permit have been abandoned or operations of the Wireless Facility have ceased for a period exceeding one hundred eighty (180) calendar days. All items and equipment subject to the Permit shall be removed within ninety (90) days of abandonment or the cessation of operations. If equipment or items subject to the Permit fall into such disrepair that a health or safety hazard is created as determined according to a review by a State licensed engineer or the Consultant and such item are not repaired within sixty (60) days, or longer as necessary upon the permit holder demonstrating that despite good faith efforts, such disrepair could not be responsibly cured within the provided time, the County may require the removal of the item of the Telecommunications Facility.

B. Modification, location, or construction without Permit: If any equipment or item has been located, constructed, or modified without a permit, or in a manner inconsistent with the approved permit requirements, and the Facilities have been located, constructed, or modified without first obtaining, or in a way not authorized by, the required Permit, or any other necessary authorization, the County may require the removal of the item, equipment or the Wireless Facility.

C. Lack of Insurance: If a Permit holder has failed to comply with the liability insurance requirements required by the County, the County may require the removal of the item, equipment or the Wireless Facility.

D. Notification of Violation: If Wireless Facilities are repaired, rebuilt, placed, moved, relocated, modified, or maintained in a way not in compliance with this Ordinance or the Permit, the County shall notify the Permit holder in writing of such violation. If the County determines that removal of an item, equipment or Telecommunications Facility is required, then the County shall notify the Permit holder within forty-eight (48) hours that said items are to be removed. The County may approve an interim temporary use agreement/permit, such as to enable the removal and/or sale of the item.

E. Failure to Cure: After receiving notice of a violation, the Permit holder shall have ninety (90) calendar days to cure or remove the violation. The County shall extend such cure period as necessary upon the Permit holder demonstrating that despite good faith efforts, such default cannot be reasonably cured.

F. Failure to Cure (Removal of an item, equipment, or Telecommunications Facility is not required): For all violations other than a violation which requires removal of an item, equipment, or the Wireless Facility, a Permit holder has thirty (30) days to cure such violation(s) after notice has been mailed or delivered to the Permit holder's address of record. The County may extend the cure period upon demonstration that the Permit holder has made good faith efforts to cure and that despite its good faith efforts, such default cannot be reasonably cured within the provided time.

G. Failure to Cure. Removal of the item, equipment, or Wireless Facility is required if the permit holder cannot cure the violation within the cure period, the Permit holder shall dismantle and remove such item, and any associated structures, from the site and restore the site to as close to its original condition as possible, reasonable wear and tear excepted, within ninety (90) days of the expiration of the cure period.

H. Removal by the County: If the item, equipment or Telecommunications Facility is not removed or substantial progress has not been made to remove it within ninety (90) days of the Permit holder receiving notice, then the County may order officials or representatives of the County to remove the item at the sole expense of the owner or Permit holder.

I. Sale upon Abandonment: If the County removes or causes to be removed, the item, and the owner does not claim and remove it from the site to a lawful location within one hundred twenty (120) days, then the County may take steps to declare the item abandoned, and sell it and its components.

J. Temporary Use Permit/Agreement: Notwithstanding anything in this Section to the contrary, the County may approve an interim use permit/agreement for the item for no more than ninety (90) days, during which time a suitable plan for removal, conversion or re-location of the affected item shall be developed by the holder of the Permit, subject to the approval of the County, and an agreement to such plan shall be executed the holder of the Permit and the County. If such a plan is not developed, approved, and completed within ninety (90) days, the County may take possession of and dispose of the affected item in the manner provided in this Section.

K. Emergency Removal: If the County determines the item is hazardous, creates an emergency situation, or adversely affects public safety, the County may remove or cause to be removed the item after three (3) days written notice to the Permit holder.

L. Failure to Cure: A Permit holder still in violation after the expiration of the cure period may be considered in default, subject to fines as outlined in this Ordinance, and the Permit is subject to revocation.

M. Fines: A person who violates this Ordinance may be fined up to three hundred dollars (\$300) or ninety (90) day imprisonment or both the fine and imprisonment for each violation, and each day that a violation exists shall be deemed to be a separate violation.

VIII. SAVINGS CLAUSE

If any section, paragraph, clause, or provision of this Ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause, or provision shall not affect any other part of this Ordinance.

IX. EFFECTIVE DATE

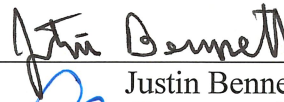
This ordinance shall be effective thirty (30) days after its recordation by the County Clerk as required by law.

APPROVED, ADOPTED, AND ORDAINED, this 11th day of MARCH, 2025.

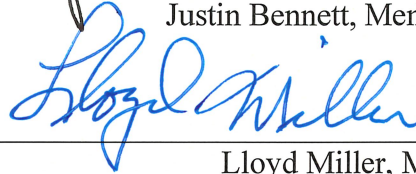
**THE BOARD OF COUNTY COMMISSIONERS OF
UNION COUNTY NEW MEXICO**



Clay Kiesling, Chairman



Justin Bennett, Member



Lloyd Miller, Member

ATTEST:



Devian Fields, County Clerk