

An Ordinance To Amend And Reenact The Town of Addis Code Of Ordinances, Chapter 113 (“Zoning”), Article IV (“Supplemental Regulations”), Section 2 (“Communications Towers and Antennae”) and To Establish Standards For “Small Wireless Facilities” In The Rights-Of-Way Of The Town of Addis

**WHEREAS**, the Town of Addis (“the Town”) desires to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of small wireless facilities, while enabling the Town to promote the management of the Town rights-of-way in the overall interests of the public health, safety and welfare; and

**WHEREAS**, the Town recognizes that small wireless facilities are critical to delivering wireless access and capacity to advanced technology, broadband and first responder services to homes, and businesses, as well as health care, public safety and educational services providers within the Town; and

**WHEREAS**, the Town recognizes that small wireless facilities, including facilities commonly referred to as “small cells” and distributed antenna systems, are deployed most effectively in the Town’s public rights-of-way.

**NOW, THEREFORE, BE IT ORDAINED** that the Town of Addis Code of Ordinances Amend And Reenact The Town of Addis Code Of Ordinances, Chapter 113 (“Zoning”), Article IV (“Supplemental Regulations”), Section 2 (“Communications Towers and Antennae”)) be amended and readopted to read as follows:

**(NOTE TO CODE EDITORS: The following definitions should be placed in alphabetical order in the correct locations within the complete list of definitions found in Section 113-154)**

*Antenna Equipment* means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna

*Antenna Facility* means an antenna and associated antenna equipment.

*Collocate* means 1) mounting or installing an antenna facility on a preexisting structure, and/or 2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. “Collocation” has a corresponding meaning.

*Decorative Pole* means a Town structure that is specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, lighting, specially designed informational or directional signage, or temporary holiday or special events attachments, have been placed or are permitted to be placed.

*Historic District* means a group of buildings, properties, or sites that are either: 1) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register; or, 2) a registered or otherwise administratively recognized historic district as defined by the laws, and/or policies and/or procedures of the State of Louisiana and/or the Town of Addis.

*Pole* – with respect to smaller telecommunications infrastructure - means a type of structure in the rights-of-way that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities; provided, such term does not include a tower, building or electric transmission structures.

*Small Wireless Facility* means a facility that is mounted on structures fifty (50) feet or less in height, or are mounted on structures no more than ten (10) percent taller than the average height of all structures within a four hundred foot (400’) radius, and does not extend existing structures on which they are located to a height of more than fifty (50) feet.

- (1) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume; and,
- (2) All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty eight (28) cubic feet in volume; and,
- (3) The facilities do not require antenna structure registration under 47 C.F.R. Part 17;
- (4) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and,
- (5) The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. 1.1307(b).

*Structure* means a combination of materials forming a walled and roofed (or non-walled or non-roofed) construction including, but not limited to buildings, stadiums, platforms, radio towers, sheds, storage bins and tanks, fences, freestanding signs, air conditioning compressors, satellite receiving stations, ~~and~~ antennas, pole, tower, base station, or other building.

*Town Structure* - with respect to smaller telecommunications infrastructure - means a structure in the rights-of-way owned, managed or operated by the Parish or any subdivision or instrumentality thereof.

*Wireless Infrastructure Provider* means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities, but that is not a wireless services provider.

*Wireless Provider* means a wireless infrastructure provider or a wireless services provider.

*Wireless Services* means any services, using licensed or unlicensed spectrum, including the use of WiFi, whether at a fixed location or mobile, provided to the public.

*Wireless Services Provider* means a person who provides wireless services.

**(NOTE TO CODE EDITORS:** The following provisions should be placed correctly in the numerical and sequential order as best determined by the Editors. The numbering is not binding and should be placed in an orderly fashion)

**LARGER TELECOMMUNICATION INFRASTRUCTURE**

**Section 113-162 – Generally.**

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(e) The provisions of this Section shall apply to all communications tower and/or antenna that are larger than fifty (50) feet in height.

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**Section 113-163 thru 113-169        RESERVED**

**SMALLER TELECOMMUNICATION INFRASTRUCTURE**

**Section 113-170. – Purpose and Scope**

- (A) Purpose. The purpose of this Article is to establish policies and procedures for use of the rights-of-way and more specifically the placement of “smaller” wireless facilities in right-of-way within the Town’s jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and reasonable aesthetic qualities of the Town’s rights-of-way.
- (B) Intent. In enacting this Article, the Town is establishing uniform standards to address the placement of small wireless facilities and associated poles in the rights-of-way, including without limitation, to:

- (1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- (2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (3) prevent interference with the facilities and operations of facilities lawfully located in rights-of-way or public property;
- (4) protect against environmental damage, including damage to trees;
- (5) preserve the character of all areas of the Town by promoting context-sensitive design standards; and
- (6) facilitate rapid deployment of small cell facilities to provide the benefits of wireless services.

#### **Section 113-171 – Permit Required; Application and Fees**

- (A) Permitted Use: The following uses within the Town’s rights-of-way shall be a permitted use, subject to administrative review only and issuance of a permit as set forth in this Article:
  - (1) Collocation of a small wireless facility on structures that do not exceed fifty (50) feet in height; and,
  - (2) Placement of a new, modified, or replacement pole to be used for collocation of a small wireless facility that does not exceed a maximum height of fifty (50) feet.
- (B) Permit Required. No person shall place any small wireless facility, pole or structure in the Town’s right-of-way, without first filing an application for the same and obtaining a permit therefor from the Town of Addis.
- (C) Application Requirements. An application filed pursuant to this Article shall be made by the wireless provider or its duly authorized representative and shall contain the following:
  - (1) The applicant’s name, address, telephone number, and e-mail address including emergency contact information;
  - (2) The names, addresses, telephone numbers, and e-mail addresses of all duly authorized representatives and consultants, if any, acting on behalf of the applicant with respect to the filing of the application.
  - (3) A general description of the proposed small wireless facility as well as the associated pole and any fencing and/or landscape buffering, if applicable. The scope and detail of such description shall be detailed enough for the Director of Public Works (“the Director”) or his or her designee (“the Designee”) to determine if the proposal is consistent with the general design character of the community within four hundred (400) feet in all directions from the proposal. The Director (or his/her designee) will examine the following criteria in making his or her decision on design consistency:
    - a. Height, scale, bulk and volume of the proposal. Small wireless antennas shall not exceed three (3) cubic feet in volume and the associated wiring and equipment shall not exceed an accumulation (including previously installed wiring and equipment) of twenty eight (28) cubic feet in volume.
    - b. Materials used in the proposal
    - c. Color, shape, form and exterior appearance of the proposal
    - d. Whether or not context-sensitive fencing and/or landscape screening is being employed or should be employed
    - e. Whether or not natural or artificial material mimicry could be employed to help the proposal blend into the surrounding environment while not decreasing proposal functionality. In making a determination on decreases in proposal functionality, the applicant shall provide sufficient scientific and technical data by scientific or technically qualified persons for the Director or his or her designee to evaluate whether or not proposal functionality will be diminished by permit conditions.
  - (4) Color pictures that represent (as closely as possible) the materials and final installation details to be utilized.

- (5) Site plans and engineering drawings to scale that identify the proposed small wireless facility. Structural engineering drawings shall be stamped and signed by a licensed Louisiana structural engineer and electrical or telecommunications engineering drawings shall be stamped by a licensed Louisiana electrical engineer. If a drawing contains both structural and electrical/telecommunication information, it shall be stamped and signed by both a Louisiana licensed structural engineer and a Louisiana licensed electrical engineer and a Louisiana licensed civil engineer. Site and engineering plans shall contain enough information for the Director of Public Works (or his or her designee) to ascertain whether or not there will be any interference with other permitted uses of the right-of-way by either the general public, the Parish or other authorized users.
- (6) A statement that the small wireless facility shall comply with all applicable codes including, but not limited to, applicable industry and local wind speed design provisions, FCC provisions and FAA provisions. The engineering drawings required elsewhere shall list all of the technical codes being followed in the design methodology.
- (7) Enough information for the Director or the Designee to determine if the application materially and demonstrably interferes with the safe operation of traffic control equipment and/or street lighting equipment;
- (8) Enough information for the Director or the Designee to determine if the application materially and demonstrably interferes with sight lines or clear zones for transportation or pedestrians;
- (9) Enough information for the Director or the Designee to determine if the application materially fails to comply with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;
- (10) A statement as to whether or not the proposal impacts a decorative pole, a historic district, a designated view site or any other special considerations not identified herein.
- (11) Evidence from facility owners that the applicant is allowed to collocate on any facilities not owned by the applicant.
- (12) Statements from the applicant with respect to any lighting, marking or noise features associated with the installation or long-term maintenance of the installation
- (13) An analysis of alternative sites available as well as whether or not those sites are eligible for collocation opportunities. The applicant must demonstrate that it has reasonably tried to secure collocation agreements at alternative sites.
- (D) Routine Maintenance and Replacement. An application shall not be required for: (1) routine maintenance; or (2) the replacement of a small wireless facility with another small wireless facility that is the same or substantially similar. The criteria for determining whether or not a replacement is substantially similar will be the same criteria used in permitting new small wireless facilities. The Town may require a permit for work that requires excavation or closure of sidewalks or vehicular lanes within the ROW for such activities.
- (E) Information Updates. Any amendment to information contained in an application shall be submitted in writing to the Town immediately upon knowledge of the amendments. If a permit has already been issued, new information provided by the applicant may invalidate the previously issued permit.
- (F) Application Fees. Application fees shall not collectively exceed the following:
  - (1) \$500 for up to the first five small wireless facilities in the same application, with an additional \$100 for each small wireless facility beyond five in the same application.

- (2) \$1,000 for the installation, modification or replacement of a pole together with the collocation of an associated small wireless facility in the rights-of-way that is a permitted use in accordance with this Chapter

(G) Insurance. The applicant shall provide proof that the Town of Addis has been named an “additional insured” with respect to any damages caused by the fault of the applicant. Said insurance shall be in the form of general liability and shall have a coverage of five hundred thousand dollars (\$500,000)

**Section 113-172 – Action on Administrative Permit Applications Subject to this Chapter**

- (A) In General. The Director of Public Works (“the Director” or his or her designee, “the Designee”) shall review an application subject to this Article considering its conformity with all provisions of this Article and any other relevant laws, codes and technical standards, and shall issue a permit upon determination that the application is complete and compliant with all provisions of this Article and other relevant laws. The Town must advise the applicant in writing of its final decision, and if the final decision is to deny the application, the final decision document shall state the basis for a denial, including specific code provisions on which the denial was based, and send the decision document to the applicant on or before the day the Town denies the application. The Director or his or her designee may also consult what is commonly called “clear zone” standards for installation setbacks from roadways as promulgated by FHWA, AASHTO, LaDOTD or other knowledgeable entities.
- (B) Batch Applications: An applicant may at the applicant’s discretion, file a consolidated application for small wireless facilities and related poles; provided, that the denial of one or more small cell facilities in a consolidated application shall not delay the processing of any other small wireless facility or related poles submitted in the same consolidated application. Batch applications may still be reviewed on an individual site basis at the Director or Designee’s discretion.
- (C) Conditional Permit Approvals. The Director of Public Works (or his or her designee) may grant “conditional” permit approvals including, but not limited to, design compatibility with the general character of the area within four hundred (400) feet. If a conditional permit is issued then the applicant or his or her designee shall comply with all conditions stated therein or be subject to a Stop Work Order as found elsewhere and/or prosecution in Addis Mayor’s Court as found elsewhere.
- (D) Additional Terms of Permits. The applicant will have the opportunity to sign their acceptance of the permit or conditional permit. As part of acceptance of a permit or conditional permit, the applicant shall agree to the following terms:
1. An indemnity term wherein the Town is indemnified from any current or future damages found to be the sole or partial fault of the applicant.
  2. Acknowledge that lessees and licensees shall be required (by permit or conditional permit terms) to comply with the entirety of this article and all of the permit terms.
  3. The applicant shall also permit the Town the right (through permit or conditional permit terms) to access books and records of the permittee including the right to audit.
  4. The permittee shall be required to provide (on an annual basis) an updated, georeferenced data file in digital format capable of being opened and read with widely utilized geographic information system (“GIS”) software. The data file shall contain – at a minimum – the latitude and longitude of each of the permittee’s small wireless facilities in the Town as well as the identification number, label or other feature used by the permittee to identify each facility.
- (E) Payment Required. The Director of Public Works or his or her designee shall reserve the right to deny permits or conditional permits as well as to revoke permits issued if it is discovered at any time that the applicant is not current on any fees required to be paid to the Town including, but not limited to, the fees required by this article.

**Section 113-173 – Small Wireless Facilities in the ROW; Maximum Height; Other Requirements**

- (A) Maximum Size of Permitted Use. A new, modified or replaced pole for the collocation of small wireless facilities may be placed in the rights-of-way as a permitted use provided that each new, modified, or replaced pole is permitted as described elsewhere and does not exceed fifty (50) feet above ground level.
- (B) Any wireless provider that seeks to install, modify, or replace a pole in the rights-of-way that exceeds the height limits contained in this section, shall be subject to applicable requirements in other articles or sections of the Unified Development Code.
- (C) Decorative Poles. A wireless provider shall be permitted to collocate on or replace a decorative pole when necessary to collocate a small wireless facility; provided that any such collocation or replacement pole shall, to the extent technically feasible, conform to the design aesthetics of the original pole.
- (D) Underground District.
  - (1) In areas designated solely for underground or buried cable and utility facilities, a wireless provider shall comply with the applicable requirements of those districts that prohibit the installation of poles or structures in the rights-of-way provided that structures that are allowed to remain shall be made available to wireless providers for the collocation of small wireless facilities in compliance with this Article, and may be replaced by a wireless provider to accommodate the collocation of small wireless facilities, in compliance with this Article.
  - (2) A wireless provider may install a new pole (by permit as found elsewhere) in the designated underground district area that otherwise complies with this Section when it is able to prove that it is unable to provide wireless service by collocating on a remaining structure.
  - (3) For small wireless facilities that were legally permitted by the Director of Public Works (or his or her designee, using the guidelines found elsewhere) and installed before the Town adopted requirements that communications and electric lines be placed underground, the Town shall (i) permit a wireless provider to maintain the small wireless facilities in place, subject to any applicable pole attachment agreement with the pole owner; or (ii) permit the wireless provider to replace the associated pole within 50 feet of the prior location.
- (E) Historic District. The Town may require design or concealment measures for small wireless facilities and associated structures in Historic Districts. Any such design or concealment measures may not be considered part of the small wireless facility for purpose of the size restrictions in the definition of small wireless facility.
- (F) Viewsheds. If the Town, Parish, State or Federal Government has designated any viewsheds and the small wireless facility is proposed to be located inside a designated viewshed, then the proposal shall meet all design guidelines associated with the viewshed.
- (G) Conditional Permits based on Design Stipulations. Applicant shall comply with permit condition requirements regarding the color, size, shape, form and material of the small cell wireless facilities.
- (H) New or Modified Pole. Any new or modified pole shall also meet the aesthetic characteristic required in the approved or conditionally approved permit.
- (I) Wiring and Cabling. Wires and cables serving the small wireless facility shall be installed in accordance with all applicable codes.
- (J) Guy Wires Restricted. Guy wires and similar support structures may not be used as part of the installation of any small wireless facility, unless the small wireless facility is proposed to be attached to an existing pole that incorporated guy wires prior to the date of the small wireless facility application.

### **Section 113-174 – Effect of Permit**

- (A) Authority Granted. No Property Right or Other Interest Created. A permit from the Town under the terms of this article authorizes an applicant to undertake only certain activities in accordance with this article and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the rights-of-way.
- (B) Permit Duration.
  - (1) A permit for construction granted pursuant to this Section shall be valid for a period of six (6) months after issuance unless the Town and applicant agree to extend this period.
  - (2) After construction, the permit does not expire, but is subject to applicable relocation requirements, termination for material non-compliance after notice, and an applicant's right to terminate a permit at any time.

### **Section 113-175 – Removal, Relocation or Modification of Small Wireless Facility in the ROW**

- (A) Notice. The Town shall provide the greatest practical notice possible, but no less than thirty (30) days following written notice from the Town, the wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities within the rights-of-way whenever the Town has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Town improvement in or upon, or the operations of the Town in or upon, the rights-of-way.
- (B) Emergency Removal or Relocation of Facilities. The Town retains the right and privilege to cut or move any small wireless facility located within the rights-of-way of the Town in the event of an emergency, as the Town may determine to be necessary, appropriate or useful in response to any imminent danger to public health, safety, or property. If circumstances permit, the Town shall notify the wireless provider and provide the wireless provider an opportunity to move its own facilities prior to cutting or removing a facility and shall notify the wireless provider promptly after cutting or removing a small wireless facility.
- (C) Abandonment of Facilities. A wireless provider is required to notify the Town at least thirty (30) days prior to abandonment of a small wireless facility. Following receipt of such notice the Town may direct the wireless provider to remove all or any portion of the small wireless facility that the Town determines would be in the best interest of the public health, safety and welfare to remove. If the wireless provider fails to remove the abandoned facility within 90 days after such notice, the Town may undertake to do so and recover the actual and reasonable expenses of doing so from the wireless provider, its successors or assigns.
- (D) Damage and Repair. The Town may require a wireless provider to repair all damage to the rights-of-way directly caused by the activities of the wireless provider and return the rights-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs within thirty (30) days after written notice, the Town may affect those repairs and charge the applicable party the reasonable, documented cost of such repairs. A wireless provider shall keep and maintain its small wireless facilities, poles and support structures in good order and repair.

### **Section 113-176 – Collocation on Town Structures in the ROW**

- (A) Collocation on Town Structures. Small wireless facilities may be collocated on Town structures in the rights-of-way pursuant to all provisions of this article. No person will be permitted an exclusive arrangement for use of the rights-of-way for the collocation of small wireless facilities or for the installation, operation, modification, maintenance,

or replacement of poles for the collocation of small wireless facilities. A person who purchases or otherwise acquires a Town structure is subject to the requirements of this section.

- (B) Make-Ready. The Town may assess rates, fees, terms and conditions for the make-ready work to collocate a small wireless facility on a pole owned or controlled by the Town. The Town or any person owning, managing, or controlling the poles owned by the Town will provide a good faith estimate for any make-ready work reasonably necessary to make a specific Town pole suitable for attachment of the requested small wireless facility, including pole replacement if necessary, within sixty (60) days after receipt of a completed request.

**Section 113-177 – Rates for ROW and Collocation on Town Structures in the ROW**

- (A) The recurring rate for use of the ROW and attachment of small wireless facilities to a Town structure in the ROW shall be subject to the following requirements:
- (1) Annual Rate. A wireless provider authorized to place small wireless facilities and any related pole in the rights-of-way will pay to the Town compensation for use of the rights-of-way and collocation on city structures in the rights-of-way an aggregate annual rate not to exceed \$270 per small wireless facility. This rate, together with the one-time application fee, shall be the total compensation that the wireless provider is required to pay the Town for the deployment of each small wireless facility in the rights-of-way and any associated pole.
- (2) Cease Payment. A wireless provider may remove its facilities at any time from the rights-of-way and Town structures in the rights-of-way and cease paying the City compensation as of the date of removal of the facilities. In no event shall a wireless provider be entitled to a full or partial refund of fees paid prior to removal of its facilities.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Town Council of the Town of Addis, Louisiana, acting as the governing authority thereof, this Ordinance shall be designated Ordinance 2021-3.

BE IT FURTHER ORDAINED by the Town Council of the Town of Addis, Louisiana that any provisions or items of this Ordinance or the application thereof if held invalid, such invalidity shall not affect other provisions, items, or applications, and to this end, the provisions of this Ordinance are hereby declared severable.

THIS ORDINANCE HAVING BEEN introduced at a Regular Meeting on the 6<sup>th</sup> day of January, 2021, and having been read paragraph by paragraph at a Regular Meeting of the Mayor and Town Council of the Town of Addis, Louisiana, duly convened on the 7<sup>th</sup> day of April, 2021, said Ordinance was,

APPROVED AND ADOPTED on the 7<sup>th</sup> day of April, 2021, by the following

yea and nay votes on the roll call:

YEAS: Bernard, LeBlanc, LeJeune, Kelley, Parrish

NAYS: None

ABSTAINING: None

ABSENT:

/s/ David H. Toups  
HONORABLE DAVID H. TOUPS  
MAYOR, TOWN OF ADDIS

ATTEST: /s/ Jade V. Simpson  
JADE V. SIMPSON, TOWN CLERK