[Bracketed] and/or ~~strikethrough~~ material is that portion being deleted or amended
Underlined material is that portion being added

BILL NO. 9-5-12-1

SUMMARY - An Ordinance to amend the Unified Development Code to modify bonding and height regulations for communication towers. (T30-0654-12)

ORDINANCE NO. 4060
(of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 30, CHAPTERS 30.16 AND 30.44, TABLES 30.16-7 AND 30.44-1 TO MODIFY BONDING AND HEIGHT REGULATIONS FOR COMMUNICATION TOWERS AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 30, Chapter 30.16, Table 30.16-7 of the Clark County Code is hereby amended to read as follows:

Table 30.16-7 ***WAIVER OF DEVELOPMENT STANDARDS* - AUTHORITY AND CONSIDERATION TABLE** ***SEE ALSO 30.16.210 for general process information and standards***	
h. Approval Authority	Commission, except for requests to reduce the required separation for large scale retail businesses, which shall be forwarded to the Board Board for the following: **1.** application submitted in conjunction with, or in lieu of, another application that requires Board approval **2.** waivers to the CMA Area Design Overlay District standards **3.** applications for a project of regional significance **4.** applications to modify the requirements for mixed use development as permitted by Chapter 30.48 Part J **5.** waivers for paving **6.** waivers for check cashing conditions **7.** waivers to appeal a denial of extension of time for bond per 30.52.090 **8.** projects within the SOSA Design Overlay District (see Chapter 30.48 Part M) **9.** applications to waive a communication tower bond

SECTION 2. Title 30, Chapter 30.44, Table 30.44-1 of the Clark County Code is hereby amended to read as follows:

Table 30.44-1 Global Use Table

Uses	SLUCM CODE	Residential Districts											Commercial Districts				Manufacturing/ Industrial Districts			Miscellaneous Districts					
		R-U	R-A	RE	R-D	R-1	R-T	R-2	RUD	R-3	R-4	R-5	CRT	C-P	C-1	C-2	M-D	M-1	M-2	O-S	H-2	P-F	RVP	U-V	H-1
Communication Antennas and Towers	4700																								

All Communication Towers and Antennas, including temporary, shall meet the following conditions:

Communication towers and antennas are a special use unless permitted as a conditional use within this table, or licensed by the Federal Communication Commissioner as an amateur radio operation (see conditions under Antennas below). All communication towers and antennas shall comply with the conditions below. Use is permitted outside.

1. The frequencies used by the communication provider shall be in conformance with Federal Communication Commission standards as certified by a competent professional.
2. The proposed tower is required because the antenna is not able to be located on an existing building, tower, structure, sign, or approved tower within the communications grid established, or to be established, by the communication provider because of one of the following:
   A. The unwillingness of the owner of an existing tower or building to agree to collocation or to provide adequate space on the property for the equipment necessary to support additional communication antenna(s).
   B. The lack of structural capacity for the antenna on the existing tower or building.
   C. The new antenna would interfere with existing or other planned equipment on the existing tower or building.
   D. The available heights on the existing tower or building are not compatible with the proposed communication grid.
   E. Other unforeseen reasons which make it commercially impracticable or technically unfeasible to locate on an existing tower or building.

F. Notwithstanding subsections (A) through (E) above, all communication providers shall first attempt to locate antenna arrays upon existing buildings and structures, including off-premise signs, within 600 feet of the proposed site prior to being approved for a new tower installation. In the event that there is such a building or structure within the distance of 600 feet, it will be incumbent upon the communication provider to demonstrate either technological or economic hardship which would discourage this cooperative land use.

3. Standards listed as applicable to towers or antennas may not be required if such standards prevent the communication provider from establishing a communication system as required by federal law.
4. [~~A bond estimate shall be provided from a Clark County licensed company experienced in contracting for removal of standard components.~~] A performance bond shall be required for all new towers, including relocated towers where a previous bond has not been accepted, in a form acceptable to the Department, or a cash deposit in lieu of the bond, in an amount sufficient to provide for removal, storage or disposal of the tower [~~or antenna~~] plus an additional 15% contingency and to restore the site including stabilization and re-vegetation as necessary. An estimate of the removal cost from a Clark County licensed company experienced in contracting for removal of standard components shall accompany the bond. A separate bond will be required for each tower regardless of owner(s) or location. All bonds shall [~~be irrevocable and shall~~] provide for the county to collect the full amount of the guarantee if the applicant fails to maintain the guarantee. Any government entity or public utility company shall be exempt from this requirement.
5. If no bond is in place, or if the County cannot collect on a bond issued pursuant to paragraph 4 above, then the following procedure shall apply. Any abandoned or unused [~~antenna or~~] tower, and the associated components of the facility shall be removed within 12 months of the cessation of operations [~~at the antenna or~~] of the tower. In the event that timely removal is not performed, the County may remove or cause the removal of the [~~antenna or~~] tower and associated components, assess the costs of removal against the property, after notice and opportunity to be heard is provided. Before taking such action, the County must mail to the property owner a notice of the County's intent to do so. The property owner served with such notice shall have 30 days from the date the notice is mailed to respond in writing to request a hearing before the Board to show cause why the abandoned [~~antenna or~~] tower and associated components should not be removed from the property at the property owner's expense. The failure to request a hearing within 30 days shall be deemed a waiver of the right to be heard and the County may immediately cause the removal of the [~~antenna or~~] tower and any associated components, and may assess the costs of removal, storage and disposal against the property.

For specific development standards for a Tower, see "Communication Tower" or for an Antenna, see "Communication Antenna"

Table 30.44-1 Global Use Table

Uses	SLUCM CODE	Residential Districts											Commercial Districts				Manufacturing/ Industrial Districts			Miscellaneous Districts					
		R-U	R-A	RE	R-D	R-1	R-T	R-2	RUD	R-3	R-4	R-5	CRT	C-P	C-1	C-2	M-D	M-1	M-2	O-S	H-2	P-F	RVP	U-V	H-1
Communication Antennas	4700	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C

1. Antennas are permitted without a special use permit or administrative design review when:
   A. Located on existing buildings or structures which are not visible or are designed to match the architecture of the existing building. Such "stealth" antennas shall not be considered for the purposes of separations, collocation, setbacks, etc.
   B. Located on existing structures, including a signal, light or sign, if:
      i. Within non-residential developments.
      ii. Designed to be architecturally compatible with the structure.
      iii. Height not to exceed 8 feet above the structure, if the structure is 35 feet or less, or 12 feet if the structure is greater than 35 feet.
      iv. If public property, communications provider shall enter into lease agreement with controlling governing body.
   C. Collocated on existing or reconstructed towers.
      i. Height. [~~The addition of the antenna may increase the overall height of the tower to a maximum of 80 feet, with a 3:1 setback from residential development~~.] The height of an existing tower may be increased by 10% of the initial height with the addition of an antenna.
      ii. If reconstructed tower, the original tower shall be removed within 60 days of the new tower being operational.
   D. One radio transmission and receiving mast tower is permitted as an accessory use to a single family residence which is occupied by a Federal Communication Commission licensed amateur radio operator with the following conditions:
      i. The overall height does not exceed 60 feet unless further restricted by the Airport Airspace Overlay;
      ii. The structure shall not be less than 15 feet from any side or rear property line;
      iii. The tower shall be designed and operated so as to comply with the regulations promulgated by the FCC;
      iv. The tower must be removed when no longer in use.
2. Antennas are permitted with an administrative design review when located on public utility structure within a residential development if the height does not exceed the height of the existing structure.
3. Antennas for signal reception only which do not exceed 8 feet on a building 35 feet high or less, or 12 feet high on a building over 35 feet high, or which conform to the height restrictions for accessory structures, are permitted. (Ord 3586 § 5 (part), 2/2008; Ord 2725 § 3, 3/2002)

Table 30.44-1 Global Use Table

Uses	SLUCM CODE	Residential Districts											Commercial Districts				Manufacturing/ Industrial Districts			Miscellaneous Districts					
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Communication Towers	4700	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S

1. Design standards for all towers. (These conditions may be modified with the approval of the special use permit)
   - A. Unless otherwise required as a condition of approval all towers shall be designed to accommodate more than 1 antenna array, and towers higher than 80 feet must accommodate at least 3 antenna arrays.
   - B. If no permanent staff is assigned to the facility, development standards regarding parking, landscaping and screening (Chapters 30.60 and 30.64) are not required; however, compliance with all dust control measures required per Clark County Air Quality Regulations shall be maintained (See 30.60.025), with the exception of:
     - i. Development greater than 40,000 square feet in size shall comply with the standards for screening and landscaping.
     - ii. Ground level equipment, buildings, and the tower or antenna base shall be screened to prevent visibility from streets and residential development.
   - C. Any communication tower may provide a security fence or wall subject to the design standards listed under Chapter 30.64 of this Title.
   - D. No signals, lights or signs shall be permitted on towers unless required by the Federal Communication Commission or Federal Aviation Administration.
   - E. Design.
     - i. All towers shall be designed to be architecturally compatible with the surrounding buildings and land uses in the zoning district, or otherwise integrated to blend in with existing characteristics of the site to the extent practical.
     - ii. All towers shall be painted with a color generally matching the surroundings or background that minimizes its visibility, however, a different color may be used if required by the Federal Communication Commission or Federal Aviation Administration.
   - F. The maximum height shall be 80 feet unless located within a public utility substation in which case the maximum height shall be 20 feet above the highest structure within the substation.
   - G. The following setbacks shall be required:
     - i. When located within a public utility substation, 10 feet minimum from street and 20 feet minimum from residential development.
     - ii. For all other towers:
       - (a) From any street: minimum 40 feet.
       - (b) From residential development located on a separate property than on which the tower is located:
         - (1) If lot is 2 ½ acres or greater: minimum distance shall be at least 300% of the height of the tower.
         - (2) If lot is less than 2 ½ acres: minimum distance shall be at least 200% of the height of the tower.
         - (3) Exception. In no case shall the setback be a distance equal to more than 75% of the width of the lot, measured from the property line that abuts or is closest to the residential development to the property line on the opposite side of the lot.
   - H. A minimum separation of 600 feet from another communication tower unless designed and constructed in a stealth design in a cluster. (Ord 3998 § 1 (part), 1/2012; Ord 3586 § 5 (part), 2/2008; Ord. 3106 § 6 (part), 8/2004; Ord. 2907 § 6 (part), 7/2003)

SECTION 2. If any section of this ordinance or portion of thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.
SECTION 3. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.
SECTION 4. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks; on October 22, 2012. A land use application approved prior to the effective date of this ordinance may be developed per the plans approved with the application.

PROPOSED on the 5th day of September, 2012

PROPOSED By : Susan Brager

PASSED on the 19th day of September, 2012

VOTE:

AYES: Susan Brager
Tom Collins
Chris Giunchigliani
Mary Beth Scow
Steve Sisolak
Lawrence Weekly

NAYS: None

ABSTAINING: None

ABSENT: Lawrence L. Brown III

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

By Susan Brager
Chair

ATTEST:

Diana Alba
DIANA ALBA, County Clerk

This ordinance shall be in force and effect from and after the 22nd day of October, 2012.