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BILL NO. _____

SUMMARY – An ordinance to amend Title 5, Chapter 5.01, Sections 5.01.070 and 5.01.080, Title 5, Chapter 5.02, Section 5.02.080 and Title 6, Chapter 6.135, Section 6.135.130 as to requiring maintenance and upkeep of above-ground facilities installed in the County rights-of-way by certain users of the rights-of-way; and requiring an annual report of maintenance.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 5, CHAPTERS 5.01 AND 5.02 AND TITLE 6, CHAPTER 6.135, OF THE CLARK COUNTY CODE BY AMENDING SECTIONS 5.01.070, 5.01.080, 5.02.080 AND 6.135.130 ADDING PROVISIONS FOR THE MAINTENANCE AND UPKEEP OF ABOVE-GROUND FACILITIES INSTALLED IN THE COUNTY RIGHTS-OF-WAY; REQUIRING ANNUAL REPORTS OF MAINTENANCE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS the County desires to maintain clean and uncluttered rights-of-way throughout the County; and

WHEREAS third party companies occupy the County rights-of-way through various agreements with the County and authority from the State of Nevada and may install above-ground facilities in the County rights-of-way pursuant to Chapters 5.01, 5.02 and 6.135 of the Clark County Code; and

WHEREAS the County holds that it is the responsibility of the owner of facilities in the rights-of-way to provide maintenance and upkeep of its own above-ground facilities and to address any issues of graffiti or accumulation of trash around such facilities;

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

SECTION 1. Title 5, Chapter 5.01, Section 5.01.070, of the Clark County Code is hereby amended to read:

5.01.070 – Franchise agreement conditions.

The approval of a new or the renewal of an existing franchise by the county commission and its acceptance by the applicant shall be reflected by execution of a franchise agreement. The franchise agreement shall incorporate all provisions of this chapter of the code.

- (a) Any franchise granted pursuant to this chapter shall be nonexclusive.
- (b) All provisions of this chapter and the franchise agreement shall be binding upon the franchisee, its successors, or assignees.
- (c) If a franchisee notifies the county manager twenty-four months before the expiration of a franchise that it wishes to extend the franchise, the county manager shall, within twelve months of the expiration of the franchise, grant a one-time extension of five years under the same terms and conditions, unless the franchisee has not substantially complied with the terms and conditions of the franchise agreement or Clark County Code.
- (d) The franchise agreement shall be construed in favor of the county and no privilege or exemption shall be inferred from the granting of any franchise unless it is specifically mentioned in this chapter of the code or in the franchise agreement.
- (e) The granting of any franchise pursuant to this chapter of the code shall be a privilege and shall not impart to the franchisee any right of property in any rights-of-way, except that the franchisee shall retain a utility easement, upon county commission approval, in the event that the county vacates or abandons any rights-of-way in which the franchisee has facilities and the franchisee notifies the county of its desire to obtain a utility easement in that right-of-way. The franchise agreement shall be construed to have granted the nonexclusive permission and authority to use any rights-of-way as provided in this chapter of the code for the construction, operation, and maintenance of facilities underground, on the surface, or above ground. In no event shall this chapter of the code or any franchise agreement be construed to have granted permission or authority to use any facilities outside of rights-of-way or any county facilities within rights-of-way, including, without limitation, streetlight and traffic light poles.
- (f) The franchisee shall at all times during the term of the franchise agreement be subject to all lawful exercise of the police power by the county, including any and all ordinances, rules or regulations which the county has adopted or may adopt, upon notice to the franchisee of at least thirty days before adoption and opportunity for the franchisee to be heard before adoption if requested by the franchisee within fifteen days after receipt of the notice, and which apply to the public generally and to the franchisee. Any conflict between the provisions of this chapter of the code and any other present or future lawful exercise of county police powers shall be resolved in favor of the county police powers.
- (g) Any privilege claimed under this chapter of the code or any franchise agreement in any rights-of-way shall be equal to the privilege of any other franchise under this chapter of the code or Nevada Revised Statutes Chapters 709 and 711, and shall be subordinate to any other prior lawful occupancy of the rights-of-way.

- (h) Any right or power in, or duty impressed upon any officer or employee of the county by virtue of this chapter of the code shall be subject to transfer by the county commission to any other officer or employee of the county.
- (i) The franchise shall be subject to all requirements of county ordinances, rules, regulations, and specifications heretofore or hereafter enacted or established to the maximum extent allowed by law.
- (j) The franchisee shall secure encroachment permits in accordance with applicable provisions of Title 30 of the Clark County Code.
- (k) The franchisee shall maintain records and allow for audits as provided in Clark County Code Title 6.
- (l) The Franchisee shall be responsible for the maintenance and upkeep of any of the Franchisee's above-surface facilities located within or immediately adjacent to the rights-of-way granted by the Franchise Agreement. The Franchisee shall submit annually to the Department of Business License a plan for the maintenance of its above-ground Facilities, if any, installed as allowed by the Franchise Agreement and shall provide to the Department of Business License a timely response as to the resolution of any complaints or enforcement actions regarding any maintenance or upkeep issues that have been received by the Franchisee.

SECTION 2. Title 5, Chapter 5.01, Section 5.01.080, of the Clark County Code is hereby amended to read:

5.01.080 – Rights-of-way license agreement conditions.

A rights-of-way license agreement may be granted by the county commission to a public utility to construct, operate, and maintain its system in specific streets and rights-of-way as authorized routes for nonsubscription service only. The approval of a rights-of-way license by the county commission and its acceptance by the applicant shall be reflected by execution of a rights-of-way license agreement. A rights-of-way license agreement shall incorporate all provisions of this chapter of the code. In addition to authorized routes initially approved in the rights-of-way license agreement, the county manager may approve expansion of a rights-of-way licensee's authorized routes upon written request from the rights-of-way licensee, if he finds that space is available in those rights-of-way, there are no applicable street cut limitations, and the proposed expansion would not interfere with existing or planned public improvements in those rights-of-way.

- (a) Any rights-of-way license granted pursuant to this chapter of the code shall be nonexclusive and revocable, in accordance with the terms of the rights-of-way license agreement.

- (b) All provisions of this chapter of the code and the rights-of-way license agreement shall be binding upon the rights-of-way licensee, its successors, or assignees.
- (c) The rights-of-way license agreement shall be construed in favor of the county and no privilege or exemption shall be inferred from the granting of any rights-of-way license unless it is specifically mentioned in this chapter of the code or in the rights-of-way license agreement.
- (d) The granting of any rights-of-way license pursuant to this chapter of the code shall be a privilege and shall not impart to the rights-of-way licensee any property right or title in any rights-of-way, except that the rights-of-way licensee shall retain a utility easement, upon county commission approval, in the event that the county vacates or abandons any rights-of-way in which the rights-of-way licensee has facilities and the rights-of-way licensee notifies the county of its desire to obtain a utility easement in that right-of-way. The rights-of-way license agreement shall be construed to have granted the nonexclusive permission and authority to use any rights-of-way as provided in this chapter of the code for the construction, operation, and maintenance of facilities underground, on the surface, or above ground. In no event shall this chapter of the code or any rights-of-way license agreement be construed to have granted permission or authority to use any facilities outside of rights-of-way or any county facilities within rights-of-way, including without limitation, streetlight and traffic light poles.
- (e) The rights-of-way licensee shall at all times during the term of the rights-of-way license agreement be subject to all lawful exercise of the police power by the county, including any and all ordinances, rules, or regulations which the county has adopted or may adopt, upon notice to the rights-of-way licensee at least thirty days before adoption and an opportunity for the rights-of-way licensee to be heard before adoption if requested by the rights-of-way licensee within fifteen days after receipt of the notice, and which apply to the public generally and to the rights-of-way licensee. Any conflict between the provisions of this chapter of the code and any other present or future lawful exercise of the county police powers shall be resolved in favor of the county police powers.
- (f) Any privilege claimed under this chapter of the code or rights-of-way license agreement must apply only to specific streets therein, and such privilege may not exceed but shall be equal to the privilege of any rights-of-way license granted under this chapter of the code or Nevada Revised Statutes Chapters 709 and 711 and shall be subordinate to any other prior lawful occupancy of the rights-of-way.
- (g) Any right or power in, or duty impressed upon any officer, employee, department, or board of the county by virtue of this chapter of the code shall be subject to transfer by the county commission to any other officer, employee, or board of the county.
- (h) The rights-of-way licensee shall be subject to all requirements of county ordinances, rules, regulations and specifications heretofore or hereafter enacted or established to the maximum extent allowed by law.

- (i) The rights-of-way license shall require a rental fee in exchange for use of rights-of-way.
- (j) The rights-of-way licensee shall maintain records and allow for audits as provided in Clark County Code Title 6.
- (k) The rights-of-way licensee shall secure encroachment permits in accordance with applicable provisions of Title 30 of the Clark County Code.
- (l) The rights-of-way licensee shall be responsible for the maintenance and upkeep of any of the rights-of-way licensee's above-surface facilities located within or immediately adjacent to the rights-of-way granted by the this Rights-of-Way License Agreement. The rights-of-way licensee shall submit annually to the Department of Business License a plan for the maintenance of its above-ground Facilities, if any, installed as allowed by the Rights-of-Way License Agreement and shall provide to the Department of Business License a timely response as to the resolution of any complaints or enforcement actions regarding any maintenance or upkeep issues that have been received by the rights-of-way licensee.

SECTION 3. Title 5, Chapter 5.02, Section 5.02.080, of the Clark County Code is hereby amended to read:

5.02.080 – Conditions of public right-of-way occupancy.

Cable franchises and cable service permits shall require compliance with this section as it shall be amended from time to time.

- (a) A cable company shall comply with this chapter and the improvement standards adopted in Title 30 of this code, as adopted by the county commission and in effect at time of construction completion, except where retroactive application of new standards is required by federal or state law.
- (b) Prior to any work within the rights-of-way, the cable company shall obtain an encroachment permit pursuant to applicable provisions of Title 30 of this code.
- (c) When the public improvement designs prepared by the cable company are more detailed than, or are not covered by, the improvement standards adopted in Title 30 of this code, plans and specifications for construction, reconstruction, installations, and repairs of public improvements shall be sealed by a Nevada registered professional engineer.
- (d) Except in the case of an emergency, and except as provided in subsection (e) of this section, a cable company who is the initiator of a project in a street or easement along which residential yards are located and maintained shall notify residents who are located adjacent to the proposed project at least two days prior to the date that the cable company proposes to commence construction. Such notice shall be by written notice in person, by posted notice on the street where the proposed project is scheduled to be built (which notice is to be large enough to be clearly read by passing

motorists), by door hanger, or by mail, with a description of the proposed project and the name of the cable company together with its business phone number.

- (e) Before placing a facility in an easement within a single-family residential property, a cable company shall provide the homeowner with written notice no less than five days before such installation. Such notice shall advise the homeowner of:
 - (1) The location within the easement where the cable company plans to locate the facility;
 - (2) The homeowner's right to select another place within the easement to locate the facility, if such location is technically feasible for the cable company;
 - (3) The cable company's obligation to camouflage the facility, either by landscaping or by some other method reasonably acceptable to the homeowner.
- (f) All public improvement work performed by the cable company in rights-of-way shall be inspected, completed and accepted in accordance with this chapter and the improvement standards adopted in Title 30 of this code.
- (g) In the case of damage caused by the cable company to any rights-of-way, the cable company shall at no cost or expense to the county repair, replace and restore the damaged area in accordance with current improvement standards adopted in Title 30 of this code.
- (h) The cable company shall not acquire any vested right or interest in any particular right-of-way location for any of its facilities constructed, operated, or maintained in any existing or proposed rights-of-way, even though such location was approved by the county.
- (i) Reconstruction, removal or relocation of a cable company's facilities to accommodate a public improvement shall be provided for in the following manner:
 - (1) The county or Las Vegas Valley Water District, Kyle Canyon Water District, Big Bend Water District or Clark County Water Reclamation District shall issue to a cable company written notice of a need to reconstruct, remove, or relocate any of cable company's facilities which may be in conflict with an existing or proposed public improvement in order to accommodate the installation, maintenance, or use of the public improvement. Such written notice shall include project information equivalent in detail to fifty percent or more of final design for the public improvement. The cable company shall, within thirty days after receiving such written notice from the county or district, as described in this paragraph, present to the director of public works a notice of intent to reconstruct, remove, or relocate said facilities, and shall, within six months after receipt of written notice from the county or district, or such shorter time period as may be reasonable, reconstruct, remove, or relocate said facilities. Upon request from a cable company identifying a

recommended location for its facilities, the director of public works shall provide that location or an alternate location within the right-of-way for the cable company if space is available.

- (2) Within thirty days after receipt of such written notice from the county or district, as described in subsection (i)(1) of this subsection, the cable company may present a written application and supporting documentation to the director of public works for an extension of time in which to complete reconstruction, removal or relocation of its facilities. The director of public works may grant additional time beyond the time period provided if the additional time requested is due to service, equipment, or material delivery constraints beyond the control and without the fault or negligence of the cable company, or if the project described in the written notice is of such a size that the work to be performed by the cable company cannot be completed within the allowable time.
- (3) If after the issuance of the initial written notice the county or district, as described in subsection (i)(1) of this subsection, makes a substantial change in the design of the public improvement project, including but not limited to changes in elevation, changes affecting public right-of-way alignment and widths of alignment, the county or district, as described in subsection (i)(1) of this subsection, shall notify the cable company of the details of the substantial change. If the cable company determines that such change would cause a delay in reconstruction, removal or relocation of its facilities beyond the time period provided, the cable company may, within fourteen days from receipt of notice of such change, petition the director of public works for an extension of time in which to complete reconstruction, removal or relocation of facilities. If the additional time is requested due to service, equipment, or material delivery constraints beyond the control of the cable company, or if the public improvement design change is of such a scope that the work to be performed by the cable company cannot be completed within the time period allowed, the director may grant an extension of time. If the request for extension of time is denied, the cable company may appeal the denial to the county commission within fourteen days from receipt of notice of denial. The decision of the county commission shall be final.
- (4) The county or district, as described in subsection (i)(1) of this subsection, shall provide the cable company with a final design of the public improvement as soon as it becomes available.
- (5) If cable company fails to reconstruct, remove, or relocate its facilities as required by this section within the time period agreed upon, the county may reconstruct, remove, or relocate said facilities and charge the cost of reconstruction, removal, or relocation to the cable company. The county will not be held liable for any losses or damages due to reconstruction, removal, or relocation of such facilities

- (j) The cable company shall, on request of any person holding a permit to move a building, temporarily raise or lower its wires or cables to permit the movement of the building. The expense of temporary removal of raising or lowering of wires shall be paid by the person requesting it, and the cable company shall have the authority to require such payment in advance. The cable company shall be given not less than thirty days' advance notice to arrange temporary wire or cable alterations.
- (k) Whenever, in case of emergency, it becomes necessary to remove any of the cable company's facilities, no charge shall be made by the cable company against the county for loss, damage, restoration, and repair.
- (l) A cable company shall maintain and provide to the county, upon request and at no cost, as-built plans indicating the location of its facilities. A cable company may provide, on a voluntary basis, electronic plans showing the general location of its facilities in rights-of-way.
- (m) A cable company shall participate in "Call Before You Dig" or any other such programs active in its service area with regard to giving and receiving notice of the location of facilities and excavations.
- (n) Without limiting the foregoing, antennae and their supporting structures (towers) shall be designed in accordance with the Uniform Building Code as amended, and shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable state or local laws, codes, and regulations, all as hereafter may be amended or adopted.
- (o) If any removal, relaying, or relocation of a cable company's facilities is required to accommodate the construction, operation, or repair of the facilities of another person that is authorized to use the rights-of-way, a cable company shall, after thirty days' advance written notice, take action to effect the necessary changes requested by the responsible entity.
- (p) Neither the county nor its officers, employees, agents, attorneys, consultants or independent contractors shall have any liability to a cable company as a result of or in connection with the protection, movement, removal, alteration, or relocation of any part of a cable system by or on behalf of a cable company or the county in connection with any emergency, public work, public improvement, alteration of any publicly owned structure, any change in the grade or line of any right-of-way.
- (q) A cable company shall place its system lines underground in localities where both telephone and power lines are underground, and shall replace aerial facilities with underground facilities concurrently with telephone and power utilities when both types of utilities are required by the county to place facilities underground. Where undergrounding is required, system passive or active electronics may be housed only in low-profile, above-ground pedestals, as approved by the county.

- (r) Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of system equipment must be properly licensed under laws of the state and all applicable local ordinances, where applicable, and each contractor or subcontractor shall have the same obligations with respect to its work as the cable company would have if the work were performed by the cable company. A cable company must ensure that contractors, subcontractors and all employees who will perform work for it are trained. A cable company shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with the cable franchise and applicable law, shall be fully responsible for all acts or omissions of contractors or subcontractors performed within the scope of their work for the cable company, shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor, and shall implement a quality control program to ensure that the work is properly performed.
- (s) [The cable company shall be responsible for the maintenance and upkeep of any of the cable company's above-surface facilities located within or immediately adjacent to the rights-of-way of the County. The cable company shall submit annually to the Department of Business License a plan for the maintenance of its above-ground Facilities, if any, installed in the rights-of-way of the County and shall provide to the Department of Business License a timely response as to the resolution of any complaints or enforcement actions regarding any maintenance or upkeep issues that have been received by the cable company.](#)

SECTION 4. Title 6, Chapter 6.135, Section 6.135.130, of the Clark County Code is hereby amended to read:

6.135.130 – Conditions of rights-of-way occupancy and facilities installation.

- (a) A provider shall comply with this chapter and the improvement standards adopted in Title 30 of this code, as adopted by the county commission and in effect at time of construction completion, except where retroactive application of new standards is required by federal or state law.
- (b) The county may require a provider to obtain a construction, encroachment or occupancy permit for any work in the rights-of-way, may inspect any construction, installation, maintenance or repair work in the rights-of-way, and may charge a provider a fee to issue permit or to perform such inspection. The county shall act upon any request by a provider for a permit no later than ten business days after the date on which the request is made. The amount of any permit or inspection fee under this section or Title 30 of the Code shall not exceed the actual costs incurred by the county in administering the process of issuing such permits and performing such inspections.
- (c) If there is an emergency requiring immediate response work or repair in, on, under or over any rights-of-way, a provider may begin such work or repair without first obtaining a permit; provided that the provider shall notify the public works director as promptly as is reasonably possible after learning of the need for the emergency work,

shall subsequently obtain any permit that otherwise would have been required for non-emergency work, shall pay all applicable fees for such permit, and shall restrict any work performed in the rights-of-way prior to obtaining a permit to emergency work and repairs.

- (d) Except as provided for in subsection 6.135.130(c), prior to any work within the rights-of-way, the provider shall obtain an encroachment permit pursuant to applicable provisions of Title 30 of this code.
- (e) All construction work in the rights-of-way performed by or on behalf of a provider shall be performed in a safe manner subject to the approval of the public works director and in accordance with all applicable laws, rules, regulations and permitting requirements related to public safety or the use of rights-of-way. When the public improvement designs prepared by the provider are more detailed than, or are not covered by, the improvement standards adopted in Title 30 of this code, plans and specifications for construction, reconstruction, installations, and repairs of public improvements shall be sealed by a Nevada registered professional engineer.
- (f) Except in the case of an emergency, and except as provided in subsection (g) of this section, a provider who is the initiator of a project in a street or easement along which residential yards are located and maintained that will result in disruption of such yards or result in the installation of new exposed surface facilities shall notify residents who are located adjacent to the proposed project at least two days prior to the date that the provider proposes to commence the proposed project. Such notice shall be by written notice in person, by posted notice on the street where the proposed project is scheduled to be built (which notice is to be large enough to be clearly read by passing motorists), by door hanger, or by mail, with a description of the proposed project, the name of the provider together and a telephone number at which the provider can be reached twenty-four hours per day.
- (g) Before placing a facility in an easement within a single-family residential property, a provider shall provide the homeowner with written notice no less than five days before such installation. Such notice shall advise the homeowner of:
 - (1) The location within the easement where the provider plans to locate the facility;
 - (2) The homeowner's right to select another place within the easement to locate the facility, if such location is technically feasible for the provider;
 - (3) The provider's obligation to camouflage the facility, either by landscaping or by some other method reasonably acceptable to the homeowner.
- (h) All public improvement work performed by the provider in rights-of-way shall be inspected, completed and accepted in accordance with this chapter and the improvement standards adopted in Title 30 of this code.
- (i) In the case of damage caused by the provider to any rights-of-way, the video service provider shall at no cost or expense to the county repair, replace and restore the

damaged area in accordance with current improvement standards adopted in Title 30 of this code.

- (j) The provider shall not acquire any vested right or interest in any particular right-of-way location for any of its facilities constructed, operated, or maintained in any existing or proposed rights-of-way, even though such location was approved by the county.
- (k) Reconstruction, removal or relocation of a provider's facilities to accommodate a public improvement shall be provided for in the following manner:
 - (1) The county or Las Vegas Valley Water District, Kyle Canyon Water District, Big Bend Water District or Clark County Water Reclamation District shall issue to a provider written notice of a need to reconstruct, remove, or relocate any of provider's facilities which may be in conflict with an existing or proposed public improvement in order to accommodate the installation, maintenance, or use of the public improvement. Such written notice shall include project information equivalent in detail to fifty percent or more of final design for the public improvement. The provider shall, within thirty days after receiving such written notice from the county or district, as described in this paragraph, present to the director of public works a notice of intent to reconstruct, remove, or relocate said facilities, and shall, within six months after receipt of written notice from the county or district, or such shorter time period as may be reasonable, reconstruct, remove, or relocate said facilities. Upon request from a provider identifying a recommended location for its facilities, the director of public works shall provide that location or an alternate location within the right-of-way for the provider if space is available.
 - (2) Within thirty days after receipt of such written notice from the county or district, as described in subsection (i)(1) of this subsection, the provider may present a written application and supporting documentation to the director of public works for an extension of time in which to complete reconstruction, removal or relocation of its facilities. The director of public works may grant additional time beyond the time period provided if the additional time requested is due to service, equipment, or material delivery constraints beyond the control and without the fault or negligence of the provider, or if the project described in the written notice is of such a size that the work to be performed by the provider cannot be completed within the allowable time.
 - (3) If after the issuance of the initial written notice the county or district, as described in subsection (i)(1) of this subsection, makes a substantial change in the design of the public improvement project, including but not limited to changes in elevation, changes affecting public right-of-way alignment and widths of alignment, the county or district, as described in subsection (i)(1) of this subsection, shall notify the provider of the details of the substantial change. If the provider determines that such change would cause a delay in reconstruction, removal or relocation of its facilities beyond the time period provided, the provider may, within fourteen days from receipt of notice of such change, petition the director of public works for an extension of time in which to complete reconstruction, removal or relocation of facilities. If the additional time is requested due to service,

equipment, or material delivery constraints beyond the control of the provider, or if the public improvement design change is of such a scope that the work to be performed by the provider cannot be completed within the time period allowed, the director may grant an extension of time. If the request for extension of time is denied, the provider may appeal the denial to the county commission within fourteen days from receipt of notice of denial. The decision of the county commission shall be final.

- (4) The county or district, as described in subsection (i)(1) of this subsection, shall provide the provider with a final design of the public improvement as soon as it becomes available.
- (5) If a provider fails to reconstruct, remove, or relocate its facilities as required by this section within the time period agreed upon, the county may reconstruct, remove, or relocate said facilities and charge the cost of reconstruction, removal, or relocation to the provider. The county will not be held liable for any losses or damages due to reconstruction, removal, or relocation of such facilities.
- (l) The provider shall, on request of any person holding a permit to move a building, temporarily raise or lower its wires or cables to permit the movement of the building. The expense of temporary removal of raising or lowering of wires shall be paid by the person requesting it, and the provider shall have the authority to require such payment in advance. The provider shall be given not less than thirty days' advance notice to arrange temporary wire or cable alterations.
- (m) Whenever, in case of emergency, it becomes necessary to remove any of the provider's facilities, no charge shall be made by the provider against the county for loss, damage, restoration, and repair.
- (n) A provider shall maintain and provide to the county, upon request and at no cost, as-built plans indicating the location of its facilities. A provider may provide, on a voluntary basis, electronic plans showing the general location of its facilities in rights-of-way.
- (o) A provider shall participate in "Call Before You Dig" or any other such programs active in its service area within the county with regard to giving and receiving notice of the location of facilities and excavations
- (p) Without limiting the foregoing, antennae and their supporting structures (towers) shall be designed in accordance with the Uniform Building Code as amended, and shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable state or local laws, codes, and regulations, all as hereafter may be amended or adopted.
- (q) If any removal, relaying, or relocation of a provider's facilities is required to accommodate the construction, operation, or repair of the facilities of another person

- that is authorized to use the rights-of-way, a provider shall, after thirty days' advance written notice, take action to effect the necessary changes requested by the responsible entity.
- (r) Neither the county nor its officers, employees, agents, attorneys, consultants or independent contractors shall have any liability to a provider as a result of or in connection with the protection, movement, removal, alteration, or relocation of any part of a video service network by or on behalf of a provider or the county in connection with any emergency, public work, public improvement, alteration of any publicly owned structure, any change in the grade or line of any right-of-way.
 - (s) A provider shall place its system lines underground in localities where both telephone and power lines are underground, and shall replace aerial facilities with underground facilities concurrently with telephone and power utilities when both types of utilities are required by the county to place facilities underground. Where undergrounding is required, system passive or active electronics may be housed only in low-profile, above-ground pedestals, as approved by the county.
 - (t) Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of system equipment must be properly licensed under laws of the state and all applicable local ordinances, where applicable, and each contractor or subcontractor shall have the same obligations with respect to its work as the provider would have if the work were performed by the provider. A provider must ensure that contractors, subcontractors and all employees who will perform work for it are trained. A provider shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with applicable law, shall be fully responsible for all acts or omissions of contractors or subcontractors performed within the scope of their work for the provider, shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor, and shall implement a quality control program to ensure that the work is properly performed.
 - (u) A provider shall not attach any of its facilities to any county-owned facilities unless the provider has entered into a written agreement with the county for the rights of attachment and use.
 - (v) After an excavation is made and after any excavation work is completed, including the requirements contained in subsection (w) of this section, a provider shall, as soon as practicable but not later than seventy-two hours, remove all surplus material; except that if the surplus material is blocking a public street or sidewalk, the provider shall remove such material no later than twenty-four hours after the excavation is made or the excavation work completed.
 - (w) A provider shall reconstruct, replace or restore any landscaping, street or alley, or any water, sewer, sanitary sewer, storm drainage, traffic signal or street light facilities, or any other facility of the county disturbed by the provider, within thirty days of written notice by the county, to a condition acceptable to the public works director, consistent

with specifications, requirements and regulations of the county in effect at the time of such restoration. Any such improvements so disturbed by the provider shall be reconstructed, replaced or restored only under the supervision of county personnel. All costs incurred in surplus material removal and restoration, whether done with the county's work forces and equipment or otherwise, shall be paid by the provider, including the cost of any inspectors the county may assign to the project.

- (x) All of a provider's facilities shall be placed so that they do not interfere with the use of the rights-of-way by the county and shall only be placed after approval of the location by the public works director, in accordance with any generally applicable specifications adopted by the county governing the location of facilities.

- (y) Whenever the county excavates or performs any non-emergency work in the rights-of-way and such excavation or work may disturb but not require the removal or relocation of a provider's facilities, the county shall notify the provider seventy-two hours in advance of the excavation or work to enable the provider to take such measures as it may deem necessary to protect its facilities from damage and inconvenience, or from injury or damage to the public or the rights-of-way. If the provider cannot take such measures, the provider shall be required to relocate its facilities in accordance with this section, in which case, the provider shall, upon request, furnish field markings to the county showing the location of all of its facilities in the area involved in such proposed excavation or work.

- (z) The county may require a provider to relocate its facilities to accommodate another rights-of-way user, if the provider's and other user's facilities can both be located in the rights-of-way without interfering with the provider's operations, subject to the following:
 - (1) The other user shall pay the provider the costs of any relocation occasioned by such user.

 - (2) The provider shall remove and relocate its facilities upon receipt of payment of the provider's estimated costs from the other user.

 - (3) If the provider's estimated costs do not cover all of the provider's final costs of the removal or relocation, the provider shall bill the other user for the balance of the costs following completion of the work benefiting the other user, and the other user shall pay the provider any balance owed within thirty days of receipt of the billing statement; and

 - (4) If the provider's estimated costs exceed the provider's final costs of the removal or relocation, the provider shall refund any overpayment to the other user within thirty days after completion of the work benefiting the other user.

- (aa) When the county proposes to improve the rights-of-way, including but not limited to work related to streets, sidewalks, landscaping, traffic signalization, street lights,

water lines, storm drainage or sanitary sewers, and such improvements include excavation and the placement of underground utilities vaults and conduit sufficient for a provider's facilities by and at the expense of someone other than the provider, then upon notification by the county to the provider and such reasonable scheduling as may be required by the county, the provider shall replace its then-existing overhead facilities within the affected rights-of-way with underground facilities within such area. The provider shall pay all costs of such underground placement. The conversion from overhead to underground shall be conditioned upon the county requiring the undergrounding in the area in which both the existing and new facilities are and will be located and on the county requiring all existing overhead communication and utility facilities in such area to be removed.

- (bb) The Provider shall be responsible for the maintenance and upkeep of any of the Provider's above-surface facilities located within or immediately adjacent to the rights-of-way. The Provider shall submit annually to the Department of Business License a plan for the maintenance of its above-ground Facilities, if any, installed in the rights-of-way of the County and shall provide to the Department of Business License a timely response as to the resolution of any complaints or enforcement actions regarding any maintenance or upkeep issues that have been received by the Provider.

SECTION 5. If any provision, section, paragraph, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this chapter. It is the intent of the county commission in adopting this chapter that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this chapter are declared to be severable.

SECTION 6. 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 7. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the 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.

PROPOSED on the ____ day of _____, 2011

PROPOSED BY: COMMISSIONER _____

PASSED on the _____ day of _____, 2011

AYES: COMMISSIONER _____
COMMISSIONER _____
COMMISSIONER _____
COMMISSIONER _____
COMMISSIONER _____
COMMISSIONER _____
COMMISSIONER _____

NAYS: _____

ABSTAINING: _____

ABSENT: _____

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

BY: _____
SUSAN BRAGER, Chair

ATTEST:

DIANA ALBA, County Clerk

This ordinance shall be in force and effect from and after the _____ day of _____, 2011.