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BILL NO. _____

SUMMARY – An ordinance to amend Clark County Code Title 5, Chapter 5.01 and Title 6, Chapter 6.13 to provide for the granting of a franchise agreement for broadband service and/or broadband infrastructure access; require a business license; add and revise definitions; establish fees; and providing for other matters properly related thereto.

ORDINANCE NO. _____

(of Clark County, Nevada)

AN ORDINANCE TO AMEND CLARK COUNTY CODE TITLE 5, CHAPTER 5.01 AND TITLE 6, CHAPTER 6.13 TO PROVIDE FOR THE GRANTING OF A FRANCHISE AGREEMENT FOR BROADBAND SERVICE AND/OR BROADBAND INFRASTRUCTURE ACCESS; REQUIRE A BUSINESS LICENSE; ADD AND REVISE DEFINITIONS; ESTABLISH FEES; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

SECTION ONE. Title 5, Chapter 5.01, Section 5.01.010 of the Clark County Code is hereby amended to read as follows:

5.01.010 – Definitions.

For the purpose of this chapter of the code, the following definitions shall apply. Terms phrases, words, and their derivations shall have the meanings set forth therein, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future,

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words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive:

- (a) “AB 509” means Assembly Bill 509 passed by the 83rd Session of the Nevada State Legislature and approved by the Governor on May 30, 2025.
- (b) "Abandoned" means the relinquishing of facilities owned by a public utility or broadband provider that no longer has a business license, or franchise or rights-of-way license agreement, or certificate of public convenience and necessity from the Public Utilities Commission, if required by the laws of the state of Nevada, or of a facility which the public utility or broadband provider has agreed to transfer to the county.
- (c**[b]**) "Applicant" means the person who submits the completed application as set forth in Title 5 of this code.
- (d**[e]**) "Application" means all written documentation, statements, representations and warranties provided to the county, in accordance with Title 5 of the code, by a prospective franchisee or rights-of-way licensee, which are relied upon by the county in making its determination of whether to grant or withhold a franchise or rights-of-way license.
- (e) “Broadband infrastructure access” has the same meaning as ascribed in Subsection 6(a) of Section 17.5 of AB 509 and means the provision of open access network or other wholesale signal transmission service for the provision of broadband service.
- (f) “Broadband provider” has the same meaning as ascribed in Subsection 6(b) of Section 17.5 of AB 509 and means any person that:

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- (1) Provides or offers to provide broadband service, broadband infrastructure access or both broadband service and broadband infrastructure access;
 - (2) Does not hold a certificate of authority to act as a video service provider or to construct or operate a video service network pursuant to chapter 711 of NRS;
 - (3) Is not a provider of basic network service, as that term is defined in NRS704.006; and
 - (4) Is not licensed by the Public Utilities Commission of Nevada as a provider of commercial mobile radio service pursuant to NRS 704.033.
- (g) “Broadband service” has the same meaning as ascribed in Subsection 6(b) of Section 17.5 of AB 509 and means a service that , by wire, radio or any other technology, provides a person with the capability to transmit data to and receive data from all or substantially all Internet endpoints at a rate that is generally not less than 20 megabits per second in at least one direction.
- (h) “Broadband system” means any facilities, in whole or in part, constructed to provide broadband service and/or broadband infrastructure access and using rights-of-way to provide such broadband service and/or broadband infrastructure access.
- (i~~d~~) "Business license" means the written authorization required by the county for any person who commences, carries on, engages in, or conducts a business, occupation, trade, or employment, as delineated in Title 6 of the code, within unincorporated areas and unincorporated towns within Clark County, Nevada.

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(i~~[e]~~) "Clark County Code" or "code" or "county code" means the titles chapters and sections of the Clark County Code and ordinances referenced herein, or their successor titles, chapters and sections, adopted by the county commission, and as amended from time to time.

(k~~[f]~~) "Commence construction" means that time and date when the first connection is physically made to a utility pole for overhead facilities, when trenching is initiated for underground facilities, or when foundations are excavated for transmission facilities, provided all of these facilities are part of a public utility system or broadband system, and the appropriate permits are issued for such work.

(l~~[g]~~) "Commence operation" means that time and date, after construction completion, when the public utility system or broadband system is first used to provide subscription service or broadband service and/or broadband infrastructure access.

(m~~[h]~~) "Construction completion" means that time and date when all facilities have been installed and all public rights-of-way and properties have been restored to their former appearance and condition in a manner acceptable to the county.

(n~~[i]~~) "County" means the county of Clark, Nevada.

(o~~[j]~~) "County commission" means the board of county commissioners of the county.

(p~~[k]~~) "County manager" means the county manager appointed by county commission to perform such administrative functions of the county government as may be required of him by the county commission, or his/her designee.

(q~~[l]~~) "Director of business license" or "director of public works" means the county departmental director specifically named, or his/her designee.

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(r~~[h]~~) "Easement" means the right to use the real property of another.

(s~~[h]~~) "Facility" or "facilities" means antennae, transmitters, poles, pipes, wires, cables, conduits, amplifiers, instruments, equipment, and other appliances used in connection therewith or appurtenant thereto to provide public utility service or broadband service and/or broadband infrastructure access in the county.

(t~~[h]~~) "Franchise" means the nonexclusive authorization granted by the county commission to a public utility or broadband provider to construct, operate, and maintain its public utility system or broadband system in the rights-of-way within the county for the provision of subscription services to persons, other than themselves, or to provide broadband service and/or broadband infrastructure access and to use the rights-of-way for the installation, operation, and maintenance of its facilities. The conditions and requirements of such authorization will be described within a franchise agreement for such purpose.

(u~~[h]~~) "Franchise agreement" means an agreement granting use of public rights-of-way to provide subscription services or to provide broadband service and/or broadband infrastructure access.

(v~~[h]~~) "Franchisee" means the person to whom a franchise is granted, and its agents, including but not limited to contractors licensed by the State Contractors Board and providing construction, installation, or maintenance services on facilities located in rights-of-way on behalf of a franchisee.

(w~~[h]~~) "Person" means a natural person, any form of business or social organization and any other nongovernmental legal entity, including but not limited to the estate of a

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natural person, a corporation, partnership, association, trust, or unincorporated organization. The term "person" does not include a government, governmental agency, or political subdivision of a government.

(x~~[s]~~) "Public improvement" means new roadways and pavements, sidewalks, curbs and gutters, landscaping, street lights, foundations, poles and traffic signal conduits, water mains, sanitary and storm sewers, tunnels, subways, people movers, viaducts, bridges, underpasses, and overpasses, or other public facilities across, along, over or under any street or streets, or other such improvements which are to be used by the general public.

(y~~[t]~~) "Public Utilities Commission" means the Public Utilities Commission of the state of Nevada, and its predecessors and successors.

(z~~[u]~~) "Public utility" means any person that provides electric energy or natural gas, telecommunications services, interactive computer services, or sells or resells personal wireless services, regardless of whether that person is subject to the regulations of, or holds a certificate of public convenience and necessity from, the Public Utilities Commission. "Public utility" does not include a video service provider ~~[cable television company]~~ treated under the provisions of Chapter 6.135 ~~[5.02]~~ of this code and providing services permitted by its video service ~~[cable]~~ franchise or video ~~[cable]~~ service permit.

(aa~~[v]~~) "Public utility service" means the provision of electric energy, natural gas, telecommunications, interactive computer service, or personal wireless service over or through facilities located in rights-of-way.

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(bb~~[w]~~) "Public utility system" [~~or "system"~~] means any facilities, in whole or in part, constructed to provide public utility services and using rights-of-way to provide such service.

(cc~~[x]~~) "Right-of-way" or "rights-of-way" means public property, including air space, dedicated, granted, held, prescriptively used, or authorized by patent of the United States of America, for county public street, and public utility purposes, except as limited by any underlying grant and except public streets predominantly used for public freeway or expressway purposes, including, without limitation, the Clark County 215 Bruce Woodbury Beltway, and except for any property owned, operated, maintained and/or administered by the department of aviation, including, without limitation, airport roadways, sidewalks and streetlights.

(dd~~[y]~~) "Rights-of-way license" means the nonexclusive authorization granted by the county commission in exchange for a rental fee to a public utility to construct, operate, and maintain its public utility system in specific streets and rights-of-way as authorized routes for nonsubscription service. The conditions and requirements of such authorization will be described within a license agreement for such purpose.

(ee~~[z]~~) "Rights-of-way license agreement" means an agreement granting use of public rights-of-way to provide nonsubscription public utility services.

(ff~~[aa]~~) "Rights-of-way licensee" means the person to whom a rights-of-way license is granted and its agents, including but not limited to contractors licensed by the State Contractors Board and providing construction, installation, or maintenance services on facilities located in rights-of-way on behalf of a rights-of-way licensee.

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(gg~~bb~~) "Street" means the surface, the air space above the surface and the area below the surface of the full width of the right-of-way, including sidewalks and thoroughfares, places or ways of any kind used by the public or open to the public as a matter of right for the purpose of vehicular traffic or vehicular and pedestrian traffic, except for those on property owned, operated, maintained and/or administered by the department of aviation.

(hh~~ee~~) "Subscription service" means any service provided by a public utility over or through facilities located in rights-of-way to persons or governmental entities within unincorporated Clark County.

(ii~~dd~~) "Transfer or assign" shall not include any mortgage, pledge, or other encumbrance of the assets, stocks, or the franchise or rights-of-way license agreement of the franchisee or right-of-way licensee as security for moneys borrowed.

SECTION TWO. Title 5, Chapter 5.01, Section 5.01.020 of the Clark County Code is hereby amended to read as follows:

5.01.020 Purpose.

The purpose of this chapter of the code is to:

- (a) Establish a local policy concerning rights-of-way management for public utilities and broadband providers.
- (b) Permit and manage reasonable access, in a nondiscriminatory manner, to rights-of-way in unincorporated Clark County for public utility systems and broadband systems providers.

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- (c) Manage physical capacity of the rights-of-way held in public trust by the County.
- (d) Recover public costs of permitting private use of county rights-of-way.
- (e) Ensure all public utilities and broadband providers within the county comply with all ordinances, rules and regulations of the county.

SECTION THREE. Title 5, Chapter 5.01, Section 5.01.030 of the Clark County Code is hereby amended to read as follows:

5.01.030 Business license required.

Franchisee or rights-of-way licensee shall first obtain a business license issued by the director of business license, after application and compliance with all applicable requirements of Title 6 of this code. The application processing fee for a business license is as set forth in Clark County Code Title 6. No franchise or rights-of-way license will be approved until the applicant has first obtained a business license. In addition to the requirements of Title 6 of this code, an application for a business license by a public utility or broadband provider utilizing county rights-of-way shall include:

- (a) A statement setting forth all agreements and understandings existing between the applicant and any person with respect to the applicant's acting as an agent or representative of another person regarding use of rights-of-way;
- (b) For a corporation, a list of officers and directors of the applicant;
- (c) For a partnership, a list of all partners and their relative interests in the partnership;
- (d) A statement of whether any of the persons listed in subsections (a), (b) and (c) of this section has had a franchise or rights-of-way license declined, suspended or revoked,

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and, if so, the government agency issuing this decision, the date, time, place and reasons given.

(e) A copy of the order and certificate of public convenience and necessity from the Public Utilities Commission, if such certificate is required by the laws of the state of Nevada.

SECTION FOUR. Title 5, Chapter 5.01, Section 5.01.040 of the Clark County Code is hereby amended to read as follows:

5.01.040 Issuance of business license.

The director of business license shall issue a business license to a public utility or broadband provider which has met the business licensing requirements of Clark County Code Titles 5 and 6.

SECTION FIVE. Title 5, Chapter 5.01, Section 5.01.055 of the Clark County Code is hereby amended to read as follows:

5.01.055 Video ~~[Cable television]~~ service.

Providers of video ~~[cable television]~~ service shall be regulated under the provisions of Chapter 6.135 ~~[5.02]~~ of this code. A public utility or broadband provider franchised or licensed under the provisions of this chapter may not provide video ~~[cable]~~ services to subscribers in the county without first complying with the provisions of Chapter 6.135 ~~[5.02]~~ of this code.

SECTION SIX. Title 5, Chapter 5.01, Section 5.01.060 of the Clark County Code is hereby amended to read as follows:

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5.01.060 Application for a franchise or rights-of-way license agreement.

The following procedures will apply to all applications for new franchise or rights-of-way license agreements or renewals thereof:

- (a) The applicant shall make a written request to the county manager for a franchise or rights-of-way license.
- (b) The applicant will provide:
 - (1) The information required by Nevada Revised Statutes Section 709.060 and AB509, as applicable.
 - (2) A copy of all Clark County business licenses pertaining to applicant's activity in the rights-of-way.
 - (3) A list of persons that will be using the applicant's facilities in rights-of-way to provide subscription service or broadband service and/or broadband infrastructure access of which the applicant is aware at time of application.
- (c) When an application is certified as complete by the county manager, the application shall be presented before the county commission for approval or denial.
- (d) Notice of the application will be given pursuant to Nevada Revised Statutes Section 709.070 and AB509, as applicable.

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

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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 public utility 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) If a rights-of-way licensee notifies the county manager twenty-four months before the expiration of a rights-of-way license that it wishes to extend the rights-of-way license, the county manager shall, within twelve months of the expiration of the rights-of-way license, grant a one-time extension of five years under the same terms and conditions, unless the rights-of-way licensee has not substantially complied with

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the terms and conditions of the rights-of-way license agreement or Clark County Code.

- (d) 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

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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.

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- (k) The rights-of-way licensee shall secure encroachment permits in accordance with applicable provisions of Title 30 of the Clark County Code.

SECTION EIGHT. Title 5, Chapter 5.01, Section 5.01.090 of the Clark County Code is hereby amended to read as follows:

5.01.090 Conditions of street occupancy and facilities installation.

- (a) The franchisee or rights-of-way licensee shall comply with Title 5 and the improvement standards adopted in Title 30 of the Clark County Code, as adopted by the board of county commissioners 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 franchisee or rights-of-way licensee shall obtain a right-of-way ~~[an encroachment]~~ permit pursuant to applicable provisions of Title 30 of the Clark County Code.
- (c) When the public improvement designs prepared by the franchisee or rights-of-way licensee are more detailed than, or are not covered by, the improvement standards adopted in Clark County Code Title 30, 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, the franchisee or rights-of-way licensee, who is the initiator of a project in a street or easement upon 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 franchisee or rights-of-way licensee proposes to commence construction. Such notice shall be by written notice in person, by posted notice on the street

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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 franchisee or rights-of-way licensee together with its business phone number.

- (e) All public improvement work performed by the franchisee or rights-of-way licensee in rights-of-way shall be inspected, completed and accepted in accordance with Title 5 and the improvement standards adopted in Title 30 of this code.
- (f) It is specifically declared that it is not intended by any of the provisions of any part of this chapter of the code to create for the public, or any member thereof, a third party beneficiary hereunder, or to authorize anyone to maintain a suit for personal injuries or property damage pursuant to the provisions of this chapter of the code. The duties, obligations, and responsibilities of the county with respect to third parties shall remain as imposed by the general law of the state of Nevada.
- (g) Any inspections or subsequent approvals undertaken by the county pursuant to this chapter of the code are undertaken solely to ensure compliance with this chapter of the code and are not undertaken for the safety or other benefit of any individual or group of individuals as members of the public. Provisions in this chapter of the code dealing with inspection or approval by the county do not expand the county's general law duties.
- (h) In the case of damage caused by the franchisee or rights-of-way licensee to any rights-of-way, the franchisee or rights-of-way licensee 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.

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- (i) The franchisee or rights-of-way licensee 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.
- (j) Reconstruction, removal or relocation of a franchisee's or rights-of-way licensee'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 Sanitation District shall issue to a franchisee or rights-of-way licensee written notice of a need to reconstruct, remove, or relocate any of franchisee's or rights-of-way licensee'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 franchisee or rights-of-way licensee 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 franchisee or rights-of-way licensee 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 franchisee or rights-of-way licensee, if space is available.

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- (2) Within thirty days after receipt of such written notice from the county, or district as described in paragraph (j)(1) of this subsection, the franchisee or rights-of-way licensee 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 franchisee or rights-of-way licensee, or if the project described in the written notice is of such a size that the work to be performed by the franchisee or rights-of-way licensee cannot be completed within the allowable time.
- (3) If after the issuance of the initial written notice the county, or district as described in paragraph (j)(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 rights-of-way alignment and widths of alignment, the county or district, as described in paragraph (j)(1) of this subsection, shall notify the franchisee or rights-of-way licensee of the details of the substantial change. If the franchisee or rights-of-way licensee determines that such change would cause a delay in reconstruction, removal or relocation of its facilities beyond the time period provided, the franchisee or rights-of-way licensee 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

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constraints beyond the control of the franchisee or rights-of-way licensee, or if the public improvement design change is of such a scope that the work to be performed by the franchisee or rights-of-way licensee 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 franchisee or rights-of-way licensee 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 paragraph (j)(1) of this subsection, shall provide the franchisee or rights-of-way licensee with a final design of the public improvement as soon as it becomes available.
- (5) If franchisee or rights-of-way licensee 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 franchisee or rights-of-way licensee. The county will not be held liable for any losses or damages due to reconstruction, removal, or relocation of such facilities.
- (k) The franchisee or rights-of-way licensee 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 franchisee or rights-of-way licensee shall have the authority to require such payment in advance. The franchisee or rights-of-way licensee shall be given not less than thirty days' advance notice to arrange temporary wire or cable alterations.

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- (l) Whenever, in case of emergency, it becomes necessary to remove any of the franchisee's or rights-of-way licensee's facilities, no charge shall be made by the franchisee or rights-of-way licensee against the county for loss, damage, restoration, and repair.
- (m) Franchisee or rights-of-way licensee shall maintain and provide to the county, upon request and at no cost, as-built plans indicating the location of its facilities. Franchisee or rights-of-way licensee may provide, on a voluntary basis, electronic plans showing the general location of its facilities in rights-of-way.

SECTION NINE. Title 5, Chapter 5.01, Section 5.01.100 of the Clark County Code is hereby amended to read as follows:

5.01.100 Construction and technical standards.

Construction practices shall be in accordance with the improvement standards adopted in Title 30 of the Clark County Code. Public utility systems and broadband systems shall be installed, maintained, and operated in accordance with applicable standards defined by a state or federal governmental agency charged with the regulation of such technology.

SECTION TEN. Title 5, Chapter 5.01, Section 5.01.110 of the Clark County Code is hereby amended to read as follows:

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5.01.110 Franchise reporting.

Each year during the term of the franchise agreement, within thirty days preceding or following the anniversary of the franchise agreement, the franchisee shall submit a written report to the county manager which shall be deemed confidential, shall be maintained by the county manager in a confidential file, and shall be made available only to county officers and employees in the performance of their duties. The written report shall include the following information:

- (a) A general description of the facilities anticipated to be installed in rights-of-way during the next year of the franchise agreement of which the franchisee is aware at time of reporting.
- (b) A list of persons using the franchisee's facilities in rights-of-way to provide subscription service and broadband service and/or broadband infrastructure access during the next year of the franchise agreement, of which the franchisee is aware at time of reporting.

SECTION ELEVEN. Title 5, Chapter 5.01, Section 5.01.130 of the Clark County Code is hereby amended to read as follows:

5.01.130 Franchise revocation and penalties.

(a) After providing notice and an opportunity for the franchisee to be heard, and a reasonable opportunity to cure, a franchise may be revoked by the county commission if it finds that the franchisee:

- (1) Has not obtained or maintained the insurance required by this chapter of the code;
- (2) Has not obtained or maintained the bonds or security obligation required by this chapter of the code;

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- (3) Failed to make payment of fees due county under Title 6 of Clark County Code;
 - (4) Substantially failed to comply with terms or conditions of the franchise;
 - (5) No longer holds a business license;
 - (6) No longer holds a Public Utilities Commission certificate of public convenience and necessity if such certificate is required by the laws of the state of Nevada; or
 - (7) Has failed to use a contractor licensed by the State Contractors Board in performing any of its construction, installation, or maintenance services on facilities located in rights-of-way.
- (b) If the county commission finds that the franchisee has failed to comply with any provision of Title 5 or the improvement standards adopted in Title 30 of this code, it may direct that further right-of-way ~~[encroachment]~~ permits be denied until such time as the franchise comes into compliance.
- (c) Franchise agreements shall provide that the county commission, after providing notice and an opportunity for the franchisee to be heard and to cure, may impose fines and other penalties upon franchisees for violations of any provisions of their agreement, or any provisions of the Clark County Code.

SECTION TWELVE. Title 5, Chapter 5.01, Section 5.01.140 of the Clark County Code is hereby amended to read as follows:

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5.01.140 Rights-of-way license revocation and penalties.

(a) After providing notice and an opportunity for the rights-of-way licensee to be heard, and a reasonable opportunity to cure, a rights-of-way license may be revoked by the county commission if it finds that the rights-of-way licensee:

- (1) Has not obtained or maintained the insurance required by this chapter of the code;
- (2) Has not obtained or maintained the bonds or security obligation required by this chapter of the code;
- (3) Failed to make payment of fees due county under Title 6 of Clark County Code;
- (4) Substantially failed to comply with terms or conditions of the rights-of-way license;
- (5) No longer holds a business license;
- (6) No longer holds a Public Utilities Commission certificate of public convenience and necessity if such certificate is required by the laws of the state of Nevada; or
- (7) Has failed to use a contractor licensed by the State Contractors Board in performing any of its construction, installation, or maintenance services on facilities located in rights-of-way.

(b) If the county commission finds that the rights-of-way licensee has failed to comply with any provision of Title 5 or the improvement standards adopted in Title 30 of this code, it may direct that further right-of-way ~~[encroachment]~~ permits be denied until such time as the rights-of-way licensee comes into compliance.

(c) Rights-of-way license agreements shall provide that the county commission, after providing notice and an opportunity for the rights-of-way licensee to be heard and to cure, may impose

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finest and other penalties upon rights-of-way licensees for violations of any provisions of their agreement, or any provisions of the Clark County Code.

SECTION THIRTEEN. Title 5, Chapter 5.01, Section 5.01.170 of the Clark County Code is hereby amended to read as follows:

5.01.170 Indemnification.

(a) To the maximum extent permitted by Nevada law, the franchisee or rights-of-way licensee shall indemnify, save harmless, and defend the county, its officers and employees, individually and collectively, from all damages, fines, liens, suits, claims, demands, actions, reasonable costs of investigation and litigation, reasonable attorneys' fees and expenses, reasonable consultants' fees and expenses, and reasonable expert witnesses' fees and expenses, judgments or liability of any kind arising out of or in any way connected with the installation, construction, operations, maintenance, or condition of the public utility system and the broadband system. The franchisee or rights-of-way licensee is not required to indemnify or hold harmless the county, its officers and employees as provided herein, to the extent caused by, resulting from or arising out of the active negligence or intentional actions of one or more officers or employees of the county.

(b) The franchisee or rights-of-way licensee shall assume all risks in the operation of the public utility system and broadband system and shall be solely responsible and answerable for any and all injuries to persons or property arising out of the existence or performance of the franchise or rights-of-way license agreement. The amounts and types of required insurance coverage, as set forth in Section 5.01.180 (Insurance) of this chapter of the code, shall in no way be construed as limiting the scope of indemnity set forth in this section.

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- (c) The franchisee or rights-of-way licensee shall have no recourse whatsoever against the county for any loss, cost, expense, or damage arising out of the enforcement or lack of enforcement of any provision or requirement of this chapter of the code or of any franchise or rights-of-way license agreement.
- (d) The franchisee or rights-of-way licensee shall indemnify, save harmless, and defend the county, its officers and employees, individually and collectively, from damages which are incurred by or attributed to the county, including but not limited to costs, expenses, fees, and the actual amount of damage, arising from delays of such reconstruction, removal, or relocation work of the franchisee or rights-of-way licensee, beyond the time period provided for completion of such work, except to the extent that this provision is addressed otherwise in the franchise or rights-of-way license agreement.

SECTION FOURTEEN. Title 5, Chapter 5.01, Section 5.01.180 of the Clark County Code is hereby amended to read as follows:

5.01.180 Insurance.

- (a) Securing and maintaining all insurance coverages, or demonstrating the ability to self-insure, for the minimum limits required herein is a condition of the franchise or rights-of-way license agreement, and no franchisee or rights-of-way licensee shall commence work in county rights-of-way until all insurance requirements have been met.
- (b) All primary and excess insurance obtained for meeting the requirements of this section must be provided in compliance with Nevada Revised Statutes, Title 57, and any commercial insurance carrier providing any required coverage must have an A.M. Best rating of A-VII; and

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- (1) The franchisee or rights-of-way licensee shall provide a certificate of insurance naming Clark County, Nevada, as an additional insured, and stating that the policy will not be canceled, terminated or altered by the insurer, nor will the insurer state an intention not to renew until thirty days after providing written notification of such to the county manager; and
 - (2) The franchisee or rights-of-way licensee shall be solely responsible for payment of all premiums for insurance policies required herein.
- (c) Within ten days after approval of the franchise or rights-of-way license agreement by the county commission, the franchisee or rights-of-way licensee shall provide proof of insurance to the county manager, and maintain in full force and effect through the term of the franchise or rights-of-way license agreement the following insurance coverages, insuring against all damages arising out of or resulting from the installation, construction, operation, and maintenance of the public utility system and broadband system:
- (1) General liability insurance, with minimum limits of two million dollars per occurrence, which includes coverage for products, completed operations, blanket contractual liability, independent contractor hazard, broad form property damage, including but not limited to coverage for explosion, collapse and underground hazard.
 - (2) Automobile liability insurance, with a minimum combined single limit per occurrence of two million dollars, and which includes coverage for non-owned and hired automobile liability. Automobile liability insurance may be included as part of general liability insurance.

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- (3) Workers' compensation insurance in accordance with Nevada Revised Statutes, Chapters 616A, 616B, 616C, 616D and 617.
- (d) The minimum limits may be provided for through a single primary insurance policy providing such coverage or through addition of an umbrella liability policy written in excess of the general liability, and automobile liability policies.
- (e) If insurance coverage is obtained on a claims-made form, the franchisee or rights-of-way licensee shall provide proof of coverage for "prior acts" and proof of coverage for claims reported within two years of any occurrence.
- (f) The required insurance may be provided in the form of conventional insurance, self-insurance, or a combination of conventional insurance and self-insurance retention.
- (g) The county commission may approve a plan of self-insurance as meeting the requirements of this section. The franchisee or rights-of-way licensee may apply for such approval by written request to the county manager, which shall include a detailed plan of self-insurance, including retention limits, named excess insurance carrier, if any, and a copy of audited financial statements. The county commission may impose conditions or requirements, including posting of security. Such conditions or requirements may be unique from one franchisee or rights-of-way licensee to another. The county commission may, at any time during the term of the franchise or rights-of-way license agreement, revoke approval of a plan of self-insurance, or impose requirements or conditions for continued approval. Failure to comply with the conditions or requirements imposed by the county commission shall be deemed as failure to meet the requirement for insurance under this section, and as a violation of a condition of the franchise or rights-of-way license agreement.

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SECTION FIFTEEN. Title 5, Chapter 5.01, Section 5.01.200 of the Clark County Code is hereby amended to read as follows:

5.01.200 Rights reserved to the county.

Without limitation upon the rights which the county might otherwise have, the county does hereby expressly reserve the rights, powers, and authorities to exercise its governmental powers now or hereafter to the full extent that such powers may be vested in or granted to the county; and to grant multiple nonexclusive franchises or rights-of-way licenses within the county to other persons for the operation of the public utility systems and broadband systems pursuant to this chapter of the code and as it may be amended.

SECTION SIXTEEN. Title 6, Chapter 6.13 of the Clark County Code is hereby amended by revising the title as follows:

Chapter 6.13 PUBLIC UTILITIES AND BROADBAND PROVIDERS

SECTION SEVENTEEN. Title 6, Chapter 6.13, Section 6.13.010 of the Clark County Code is hereby amended to read as follows:

6.13.010 Definitions.

As used in this chapter, unless the context otherwise requires, the following words will have the meaning ascribed to them as follows:

- (1) “Broadband infrastructure access” is defined in Subsection 5.01.010(e) of this code.
- (2) “Broadband provider” is defined in Subsection 5.01.010(f) of this code.
- (3) “Broadband service” is defined in Subsection 5.01.010(g) of this code.

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(4) "County" means the unincorporated area of the county including the unincorporated towns.

(5~~2~~) "Customer" or "customer located within the county," means a person who, or government that, at any place within the boundaries of the unincorporated area of the county including the unincorporated towns receives any telecommunications or personal wireless service, or receives any broadband service and/or broadband infrastructure access, or uses electric energy or gas provided by a public utility. Personal wireless service shall be deemed to be received at the customer's billing address. However, effective August 1, 2002, personal wireless service shall be deemed to be received at the customer's "place of primary use" as defined herein and as defined in 4 United States Code Section 124(8) on August 1, 2002.

(6~~3~~) "Delinquent amount" means any portion of a fee collected from a customer by a public utility or broadband provider that is not paid to the department by the date the fee is due.

(7~~4~~) "Department" means the department of business license of Clark County.

(8~~5~~) "Interstate retail purchaser of energy" means any person who purchases electric energy or gas for consumption from a seller that is not required to be licensed as a provider of electric energy or gas pursuant to this chapter and that purchased energy is transported, transmitted, distributed or otherwise delivered to a location within the county by public utility licensed pursuant to this chapter.

(9~~6~~) "Line of access" means an "access line" as defined in NAC 703.2502.

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(10~~[7]~~) "Month" means a calendar month, or a portion thereof, when calculating the penalty to be assessed due to the late payment of a fee.

(11~~[8]~~) "Person" means a natural person, any form of business or social organization and any other legal entity including, but not limited to, a corporation, partnership, association, trust, not-for-profit company or corporation, state or local governmental entity or agency, unincorporated organization, or the estate of a natural person.

(12~~[9]~~) "Personal wireless service" has the meaning assigned to it in 47 U.S.C. Section 332(c)(7)(C) on July 16, 1997.

(13~~[10]~~) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be:

(A) The residential street address or the primary business street address of the customer; and

(B) Within the licensed serving area of the home service provider.

(14~~[11]~~) "Public utility" means any person that:

(A) Is a telecommunications carrier as that term was defined in 47 U.S.C. Section 153 on July 16, 1997, if the person holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada and derives intrastate revenue from the provision of telecommunications service to retail customers;

(B) Sells or resells personal wireless service; or

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- (C) Provides electric energy or gas, whether or not the person is subject to regulation by the Public Utilities Commission of Nevada.

(15~~[12]~~) "Revenue" does not include:

- (A) Any proceeds from the interstate sale of natural gas to a provider of electric energy which holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada.
- (B) Any revenue of a provider of a telecommunications service other than intrastate revenue that the provider collects from retail customers.
- (C) Write offs for bad debt.
- (D) Amounts due from the fraudulent or otherwise unlawful receipt of telecommunications service, broadband service and/or broadband infrastructure access, personal wireless service, electric energy or gas which are legally uncollectible or required to be refunded.
- (E) An excluded amount equal to forty-five percent of the revenue from customers located within the county for electric energy or gas when the public utility sells the electric energy or gas to a customer located within the county. The exclusion rate will be reduced by ten percentage points on April 1st of each year commencing on April 1, 2005, until such exclusion percentage equals zero.
- (F) Any tax on fuel or retail sales that is collected by any public utility.

(16~~[13]~~) "Telecommunications service" has the meaning assigned to it in 47 U.S.C. Section 153, but does not include any telecommunications service provided by a seller or reseller of personal wireless service.

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SECTION EIGHTEEN. Title 6, Chapter 6.13 of the Clark County Code is hereby amended by adding a new section 6.13.025 to read as follows:

6.13.025 Quarterly license fee—Broadband service and broadband infrastructure access.

(a) Every broadband provider providing any broadband service and/or broadband infrastructure access to any customer located within the county must have a valid unexpired business license issued pursuant to this code and remit to the department a quarterly license fee that it has collected from its customers.

(b) The quarterly license fee required in subsection (a) of this section will be:

(1) Due not later than sixty calendar days after the end of each calendar quarter.

(2) Two percent of the gross revenue earned during the calendar quarter from customers located within the county.

(3) In lieu of license fee set forth in this subsection, upon written agreement the county and the broadband provider, the broadband provider may provide in-kind services or goods to the county to expand and promote the installation of broadband services and/or broadband infrastructure access in designated area within the county, which areas shall be designated by the county in its sole and absolute discretion.

(c) "Gross revenue," for the purposes of this section, means all revenue derived from providing broadband service, broadband infrastructure access or both broadband service and broadband infrastructure access within the county,

SECTION NINETEEN. Title 6, Chapter 6.13, Section 6.13.060 of the Clark County Code is hereby amended to read as follows:

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6.13.060 Fee—Paid after due—Penalty.

If any fee required to be paid by the provisions of this chapter is received by the department, after the due date, a penalty of two percent of the delinquent amount will be assessed to the public utility or broadband provider per month, or fraction thereof, until past due fees are paid in full to the department. A public utility or broadband provider to which this chapter applies shall not collect from a customer any penalties or interest assessed pursuant to this chapter.

SECTION TWENTY. Title 6, Chapter 6.13, Section 6.13.070 of the Clark County Code is hereby amended to read as follows:

6.13.080 Department requirements.

(a) Each public utility and broadband provider to which this chapter applies or which intends to derive revenue from customers located within the county must, not later than the effective date of the ordinance codified in this chapter, or thirty calendar days before the public utility or broadband provider begins to provide service to those customers, whichever occurs later, provide to the department:

- (1) An acknowledgment that the public utility or broadband provider is operating or intends to operate within the county;
- (2) The date when the public utility or broadband provider began or intends to begin to derive revenue from customers located within the county;
- (3) A request for any information that is necessary to identify each of its customers affected by the fees imposed in this chapter and the specific form, if any, in which the information is requested; and

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- (4) A list of resellers or other marketers to whom the public utility or broadband provider has provided open access and of public utilities or broadband providers to whom it intends to provide capacity.
- (b) Each public utility or broadband provider to which this chapter applies must, not later than sixty calendar days after the end of each calendar quarter, provide to the department a statement on the form provided by the department of the amount of revenue the public utility or broadband provider derived during that calendar quarter from the provision of electric energy, gas, telecommunications services, broadband services and/or broadband infrastructure access, or personal wireless service to each of its customers located within the county.
- (c) In addition to the record keeping requirements described in Section 6.08.090 of this code, every public utility or broadband provider to which this chapter applies is required to maintain adequate accounting records and supporting documentation for distinguishing its revenue from customers located within the county from revenue derived from customers located within the incorporated cities in the county. The department may audit the amounts due from any public utility and broadband provider under this chapter and the public utility and broadband provider has the right to appeal the audit results as described in Section 6.08.095 of this code.
- (d) Within thirty days following the end of each calendar quarter commencing with the quarter ending December 31, 2003, the public utility providing electric energy or gas shall submit to the department a report listing every customer that the public utility billed for transportation, transmission or distribution charges only, and their billing addresses.

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SECTION TWENTY-ONE. Title 6, Chapter 6.13, Section 6.13.080 of the Clark County Code is hereby amended to read as follows:

6.13.090 Facilities—Installation, construction or maintenance.

- (a) Installation, construction or maintenance of any public utility or broadband provider facility in the county's public right-of-way will be done in accordance with applicable county regulations.
- (b) Each public utility and broadband provider subject to this chapter must, when filing its application for a business license, submit a map and description of its system architecture that shows and describes the route and location of all facilities it uses in the county in a format compatible with the county's geographic information system as outlined in the rights-of-way master ordinance.

SECTION TWENTY-TWO. Title 6, Chapter 6.13, Section 6.13.100 of the Clark County Code is hereby amended to read as follows:

6.13.100 Existing franchise or license agreement—Terms.

Except for any existing franchise between the county and a broadband provider, nothing ~~[Nothing]~~ in this chapter will be deemed to alter, modify or supersede the terms of any existing franchise or license agreement between the county and a public utility or a broadband provider.

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SECTION TWENTY-THREE. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the remaining parts of this ordinance. It is the intent of the County Commission in adopting this ordinance 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 ordinance are declared to be severable.

SECTION TWENTY-FOUR. 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 TWENTY-FIVE. 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 _____, 2025.

PROPOSED BY: Commissioner _____

PASSED on the _____ day of _____, 2025.

AYES: _____

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NAYS: _____

ABSTAINING: _____

ABSENT: _____

BOARD OF COUNTY COMMISSIONERS

BY: _____

TICK SEGERBLOM, Chair

ATTEST:

LYNN MARIE GOYA, County Clerk

This ordinance shall be in force and effect from and after
the _____ day of _____ 2025.