

1 **BILL NO. 2007-64**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO PROVIDE THAT PLANNING COMMISSION ACTION ON MOST
4 SPECIAL USE PERMITS IS FINAL, UNLESS APPEALED OR REQUESTED FOR REVIEW BY
5 A MEMBER OF THE CITY COUNCIL; TO MODIFY CERTAIN PROVISIONS REGARDING
6 RELATED HEARINGS AND APPEALS SO AS TO CONFORM TO STATE LAW; AND TO
7 PROVIDE FOR OTHER RELATED MATTERS

8 Sponsored by: Councilman Gary Reese

9 Summary: Provides that Planning Commission
10 action on most special use permits is final,
11 unless appealed or requested for review by a
12 member of the City Council, and modifies
13 certain provisions regarding related hearings and
14 appeals so as to conform to State law.

15 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
16 AS FOLLOWS:

17 SECTION 1: Title 19, Chapter 18, Section 60, Subsection (B), of the Municipal Code
18 of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

19 (B) Authority. Except as otherwise provided in this Subsection (B), [The City Council, upon
20 recommendation by] the Planning Commission[,] shall have the authority to approve, approve with
21 conditions, or deny an application for a Special Use Permit[.], and the decision of the Planning
22 Commission is final. If the decision of the Planning Commission is appealed or forwarded to the City
23 Council in accordance with this Section 19.18.060, the City Council may affirm, modify or reverse
24 the decision of the Planning Commission. The decision of the City Council is final for purposes of
25 judicial review.

26 SECTION 2: Title 19, Chapter 18, Section 60, Subsection (G), of the Municipal Code
27 of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

28 (G) Planning Commission Public Hearing and Action.

(1) Hearing. The Planning Commission shall hold a public hearing on each application
for a Special Use Permit within sixty-five days after the application is properly filed.

(2) Notice.

(a) Notice Provided. Notice of the time, place and purpose of the hearing must be
given at least ten days before the hearing by:

1 (i) Publishing the notice in a newspaper of general circulation within the
2 City;

3 (ii) Mailing a copy of the notice to:

4 A. The applicant;

5 B. Each owner of real property located within a minimum of one
6 thousand feet of the property described in the application, or in the case of an application to authorize
7 the sale of alcoholic beverages, a minimum of one thousand five hundred feet;

8 C. Each tenant of any mobile home park that is located within one
9 thousand feet of the property described in the application, or in the case of an application to authorize
10 the sale of alcoholic beverages, a minimum of one thousand five hundred feet;

11 D. The owner of each of the thirty separately-owned parcels nearest
12 to the property described in the application to the extent this notice does not duplicate the notice
13 otherwise required by this Paragraph (2);

14 E. Any advisory board which has been established for the affected
15 area by the City Council; and

16 F. The president or head of any registered local neighborhood
17 organization whose organization boundaries are located within a minimum of one mile of the property
18 described in the application.

19 (b) Names Provided. The Department of Planning and Development shall provide
20 at the request of the applicant, the name, address and phone number of any person notified pursuant
21 to Subparagraph (F) above.

22 (c) Additional Notice. The Department may give additional notice of the hearing
23 by expanding the area of notification or using other means of notification or both. The Department
24 shall endeavor to provide any additional notice at least ten days before the date of the hearing.

25 (d) Signs. Notification signs shall be posted in conformance with 19.18.010(D)
26 and NRS Chapter 278.

27 (3) Hearing. The Planning Commission shall conduct a public hearing on the application.
28 In its discretion and for good cause, the Planning Commission may hold the application in abeyance

1 for further study. However, subject to the provisions of State law, the Commission may not grant to
2 an applicant more than two continuances on the same matter, unless the Commission determines, upon
3 good cause shown, that the granting of additional continuances is warranted. Following the hearing
4 or hearings, the Planning Commission shall [make its recommendation to] approve, approve with
5 conditions, or deny the application for a Special Use Permit. The [recommendation] decision shall
6 be based upon evidence that makes the grant or denial of the Special Use Permit appropriate.

7 (4) Conditions of Approval. [Recommendation.] In [recommending] connection with the
8 approval of a Special Use Permit, the Planning Commission may impose any conditions, restrictions
9 or limitations as the Commission may determine to be necessary to meet to the general purpose and
10 intent of this Title and to ensure that the public health, safety and welfare are being maintained.

11 (5) Notice of Planning Commission Decision. [Written notice of the Planning
12 Commission's decision shall be provided to the applicant, agent, or both.] The Planning Commission
13 shall provide written notice of its decision, which shall include the reasons for the decision, and if the
14 decision is to approve the Special Use Permit, any modifications, conditions or limitations that the
15 Planning Commission may impose. The notice shall be provided to the owner, developer or agent.
16 A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed
17 to be the date notice of the decision is filed with the City Clerk.

18 SECTION 3: Title 19, Chapter 18, Section 60, Subsection (J), of the Municipal Code
19 of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

20 (J) Appeals and City Council Review.

21 [(1) Appeal of Denial. A decision by the Planning Commission to deny a Special Use
22 Permit application becomes final and effective at the expiration of ten days after the date of the
23 decision unless, within that period, the applicant appeals the decision by written request filed with the
24 City Clerk. The City Council may establish a fee for the filing of an appeal, and the amount of any
25 fee so established shall be as set forth in the fee schedule.

26 (2) Final Action by City Council Concerning Approval. A decision by the Planning
27 Commission to approve a Special Use Permit application constitutes a recommendation to the City
28 Council. The City Council shall make the final decision concerning the application.]

1 (1) Appeals and Requests for Review. Except as otherwise provided in Paragraph (2)
2 below, a decision by the Planning Commission becomes final and effective at the expiration of ten
3 days after the date of the decision unless, within that period, a written appeal or written request to
4 review is filed with the City Clerk. An appeal may be filed by the applicant or other aggrieved person.
5 The City Council may establish a fee for the filing of an appeal, and the amount of any fee so
6 established shall be as set forth in the fee schedule. A request to review may be filed by a member of
7 the City Council.

8 (2) Applications Automatically Forwarded to City Council. Any Special Use Permit
9 application, whether approved or denied by the Planning Commission, that is related to and was filed
10 in connection with an application for any of the following shall be forwarded automatically to the City
11 Council for final decision:

12 (a) A General Plan Amendment;

13 (b) A Rezoning; or

14 (c) A Site Development Plan Review that, pursuant to Section 19.18.050(G),
15 requires final action by the City Council.

16 SECTION 4: Title 19, Chapter 18, Section 60, Subsection (K), of the Municipal Code
17 of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

18 (K) City Council Public Hearing.

19 (1) Notice and Hearing. The City Council shall conduct a public hearing on all Special Use
20 Permit applications which are appealed or are forwarded to the Council [for final action.] pursuant
21 to a request for review. The City Clerk is authorized to consolidate all appeals or requests for review
22 that have been filed regarding a particular application, or to schedule them in sequence or otherwise,
23 in which case the City Council may hear the items separately or consolidate them for purposes of
24 hearing, as the Council deems appropriate. For any application that is appealed to the Council, written
25 notice of the Council hearing shall be mailed at least ten days before the hearing to the property
26 owners who were notified by mail of the Planning Commission hearing.

27 (2) City Council Decision. [The City Council may approve, approve with conditions, or
28 deny a Special Use Permit application.] In [so doing,] considering whether to affirm, modify or reverse

1 the decision of the Planning Commission, the City Council shall consider the [recommendation]
2 decision of the Planning Commission and the evidence presented at the public hearing, and shall be
3 guided by the statement of purpose underlying the regulation of the improvement of land expressed
4 in NRS 278.020. Action by the City Council is final for purposes of judicial review. In the case of an
5 appeal, the City Council:

6 (a) May not grant to an aggrieved person more than two continuances on the same
7 matter, unless the Council determines, upon good cause shown, that the granting of additional
8 continuances is warranted; and

9 (b) Must render its decision within forty-five days, unless otherwise agreed to by
10 the person filing the appeal.

11 (3) Notice of City Council Decision. The City Council shall provide written notice of its
12 decision, which shall include the reasons for the decision, and if the decision is to approve the Special
13 Use Permit, any modifications, conditions or limitations that the City Council may impose. The notice
14 shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with the
15 City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with
16 the City Clerk.

17 SECTION 5: Title 19, Chapter 18, Section 60, Subsection (M), of the Municipal Code
18 of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

19 (M) Amendments to an Approved Special Use Permit. A Special Use Permit is limited to the uses
20 and structures which are shown on the approved site development plan and are consistent with any
21 conditions of approval. Any request to amend or modify an approved Special Use Permit shall be
22 submitted to the Department of Planning and Development. Upon receipt of such a request, the
23 Director shall determine if the request constitutes a minor amendment or a major amendment. Minor
24 amendments may be approved administratively. A major amendment requires approval by the
25 Planning Commission or City Council, [after a recommendation by the Planning Commission.]
26 whichever body took final action to approve the Special Use Permit. Minor and major amendments
27 are categorized as follows:

28 (1) Minor [Amendments.] Amendment. A minor amendment includes a:

- 1 (a) Relocation or reorientation of buildings which does not alter the basic
2 relationship to adjacent property;
- 3 (b) Minor adjustment in lot lines and/or easements;
- 4 (c) Minor rearrangement of internal access and circulation;
- 5 (d) Relocation or rearrangement of parking areas;
- 6 (e) Change in the approved square footage or density that does not represent an
7 increase of more than ten percent; and
- 8 (f) Change in landscaping or building setbacks that does not represent a significant
9 decrease.

10 (2) Major Amendment. A major amendment includes any change which does not qualify
11 as a minor amendment.

12 SECTION 6: Title 19, Chapter 18, Section 60, Subsection (O), of the Municipal Code
13 of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

14 (O) Revocation.

15 (1) Notice. [The City Council may hold a hearing to revoke or modify a Special Use
16 Permit. At least ten days prior to any hearing, written notice of the hearing shall be delivered to the
17 owner, developer, or both.] A Special Use Permit may be revoked or modified by the Planning
18 Commission or the City Council, whichever body took final action to approve the Special Use Permit.
19 Such action must be preceded by a hearing, written notice of which must be delivered to the owner,
20 developer, or both, at least ten days before the hearing. Notice may be delivered in person or by
21 certified mail, return receipt requested, mailed to the address shown in the records of the Clark County
22 Assessor.

23 (2) Findings. A Special Use Permit may be revoked or modified for cause, including a
24 finding of one or more of the following:

- 25 (a) That the Special Use Permit was obtained by misrepresentation or fraud;
- 26 (b) That conditions have changed and the use or development is no longer
27 compatible with surrounding land uses or the General Plan;
- 28 (c) That the use or development is not in compliance with one or more of the

1 conditions of approval; and

2 (d) That the use permitted by the Special Use Permit is in violation of any statute,
3 ordinance, law or regulation.

4 (3) Notice of Decision. Written notice of [the] a decision regarding the revocation or
5 modification of a Special Use Permit shall be provided to the owner, developer or agent.

6 (4) Appeal. In the case of a decision by the Planning Commission to revoke or modify a
7 Special Use Permit that was approved as final action by the Commission, the appeal provisions of
8 Subsections (J) and (K) of this Section shall apply.

9 SECTION 7: Ordinance No. _____ and Title 19, Chapter 18, Section 60,
10 Subsection (P), of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby
11 amended so that Subsection (P) reads as follows:

12 (P) Termination.

13 (1) Failure to Exercise.

14 (a) A Special Use Permit which cannot be exercised except upon construction of
15 a new building, and which is not exercised within two years after approval, shall be void, unless the
16 [City Council grants] applicant obtains an extension of time upon a showing of good cause.
17 Application for an extension shall be made to the Planning Commission or City Council, whichever
18 body took final action to approve the Special Use Permit. An extension of time may be granted only
19 if application therefor is made prior to the expiration of the two-year period. For purposes of this
20 Subparagraph (a), a Special Use Permit is exercised upon the issuance of a building permit for the new
21 construction.

22 (b) A Special Use Permit which does not require the construction of a new building
23 in order to be exercised, and which is not exercised within one year after approval shall be void, unless
24 the [City Council grants] applicant obtains an extension of time upon a showing of good cause.
25 Application for an extension shall be made to the Planning Commission or City Council, whichever
26 body took final action to approve the Special Use Permit. An extension of time may be granted only
27 if application therefor is made prior to the expiration of the one-year period. For purposes of this
28 Subparagraph (b), a Special Use Permit is exercised upon the approval of a business license to conduct

1 the activity, if one is required, or otherwise, upon the issuance of a certificate of occupancy or
2 approval of a final inspection.

3 (2) Cessation of Use. A Special Use Permit shall be void without further action if:

4 (a) The Special Use Permit was issued for alcoholic beverage use and such use
5 ceases for one hundred and eighty days or more, or twenty-four months or more if the building in
6 which the use was being conducted has been damaged or partially destroyed by fire, flood, wind,
7 another calamity or an act of God; or

8 (b) The Special Use Permit was issued for a use other than alcoholic beverage use
9 and such use ceases for twelve months or more, or twenty-four months or more if the building in
10 which the use was being conducted has been damaged or partially destroyed by fire, flood, wind,
11 another calamity or an act of God.

12 SECTION 8: If any section, subsection, subdivision, paragraph, sentence, clause or
13 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
14 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
15 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
16 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
17 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
18 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
19 invalid or ineffective.

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1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2007, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2007, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____
9 VOTING "NAY": _____
10 ABSENT: _____

11
12 APPROVED:

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14 By _____
OSCAR B. GOODMAN, Mayor

15 ATTEST:

16 _____
17 BEVERLY K. BRIDGES, CMC
City Clerk

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