

1 **BILL NO. 2010-23**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO CLARIFY THAT THE LICENSE FEES IMPOSED ON A PUBLIC UTILITY
4 PURSUANT TO LVMC CHAPTER 6.67 MAY BE COLLECTED FROM A GOVERNMENTAL
5 ENTITY THAT IS A CUSTOMER OF THE PUBLIC UTILITY, AND TO PROVIDE FOR OTHER
6 RELATED MATTERS.

6 Proposed by: Bradford R. Jerbic, City Attorney

Summary: Clarifies that the license fees
imposed on a public utility pursuant to LVMC
Chapter 6.67 may be collected from a
governmental entity that is a customer of the
public utility.

9 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
10 AS FOLLOWS:

11 SECTION 1: Title 6, Chapter 2, Section 65, of the Municipal Code of the City of Las
12 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

13 **6.02.065:** Except as otherwise specifically provided in this Title, [Nothing] nothing in this Title,
14 including the imposition of any license fee or license tax, shall be deemed or construed to apply to
15 any:

16 (A) Person engaged in any of the professions or occupations hereinafter enumerated
17 solely as an employee of any other person who is properly licensed to conduct, manage or carry on any
18 such business unless specifically provided otherwise in Chapter 6.04 or any other provision of this
19 Title;

20 (B) Community theater as defined in NRS 364.130;

21 (C) Public bus transportation service for the carrying of passengers from place to
22 place within the City, which is owned or operated by a governmental entity; provided, however, this
23 exception does not apply to a private person who leases the service from the governmental entity for
24 business purposes;

25 (D) Nonprofit professional services organization that provides all of its professional
26 services to the public at no cost and has received its tax exempt status pursuant to Title 26 U.S.C.
27 Section 501(c);

28 (E) Professional person licensed by the State who works solely either as a principal

1 or employee for a nonprofit professional services organization that has tax exempt status pursuant to
2 Title 26 U.S.C. Section 501(c), if such organization provides all of its professional services to the
3 public at no cost; or

4 (F) Government entity or professional person licensed by the State who works
5 solely as an employee of a government entity.

6 SECTION 2: Title 6, Chapter 67, Section 10, of the Municipal Code of the City of
7 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

8 **6.67.010:** As used in this chapter, unless the context otherwise requires, the following words
9 [will] have the meanings ascribed to them as follows:

10 (A) "Customer located within the City" means a customer, including a
11 governmental entity, whose physical address is within the boundaries of the City.

12 (B) "Month" means a calendar month, or a portion thereof, when calculating the
13 penalty to be assessed due to the late payment of a license fee.

14 (C) "Public utility" means any business that provides:

15 (1) A telecommunications service, is required to hold a certificate of public
16 convenience and necessity issued by the Public Service Commission of Nevada, and derives intrastate
17 revenue from the provision of that service to retail customers;

18 (2) A commercial mobile radio service as that term is defined in 47 C.F.R.
19 Section 20.3 on the effective date of the ordinance codified in this chapter, or as later amended; or

20 (3) Electric energy or gas, whether or not the business is subject to
21 regulation of the Public Service Commission of Nevada.

22 (D) "Revenue" does not include:

23 (1) Any proceeds from the interstate sale of natural gas to a provider of
24 electric energy which holds a certificate of public convenience and necessity issued by the Public
25 Service Commission of Nevada.

26 (2) Any revenue of a provider of a telecommunications service other than
27 intrastate revenue.

28 SECTION 3: Title 6, Chapter 67, Section 90, of the Municipal Code of the City of

1 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

2 **6.67.090:** The license fees [charged to] imposed upon a public utility pursuant to this Chapter
3 must be collected by the public utility directly from its customers located within the City in proportion
4 to the amount of revenue the public utility derives from each of such customers, unless the City has
5 elected pursuant to NRS Chapter 354 to collect [said] those fees directly from the public utility's
6 customers located within the City. The public utility must show the customer's portion of the license
7 fee as a [surcharge] separate charge on the customer's bill. The fees imposed upon a public utility by
8 this Chapter shall be collected from a governmental entity if that entity is a customer of the public
9 utility.

10 SECTION 4: LVMC Chapter 6.67 was adopted by the City Council in 1996 in
11 response to Senate Bill (SB) 568 of the 1995 Session of the Nevada Legislation. SB 568 placed
12 limitations on the amount of franchise fees or license fees local governments could impose on a public
13 utility. In connection with the adoption of LVMC Chapter 6.67, it was the intent of the City Council
14 to have the amount of those fees paid by all customers of the public utility, including governmental
15 entities who are customers. In 1997 the Nevada Legislature adopted Assembly Bill (AB) 508 as a
16 follow-up to SB 568. AB 508, among other things, amended NRS 354.59887 to include a provision
17 specifically clarifying that local ordinances may require license fees charged to public utilities to be
18 paid by customers that are governmental entities of the state. The City Council believes that AB 508
19 was clarifying only, that it was not the only source of authority to enact an ordinance on the subject,
20 and that, in any case, its adoption gives force to the City Council's intent. For that reason, the City
21 Council intends for this Ordinance to apply to fees charged since the adoption of LVMC Chapter 6.67.
22 If it is subsequently determined that it is not legally permissible to apply this Ordinance in that
23 manner, the Ordinance shall be deemed to apply to fees charged since July 16, 1997, the effective date
24 of AB 508. If it is further determined that it is not legally permissible to apply this Ordinance in that
25 manner, the Ordinance shall be deemed to apply to fees charged after the day following publication
26 of this Ordinance.

27 SECTION 5: If any section, subsection, subdivision, paragraph, sentence, clause or
28 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or

1 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
2 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
3 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
4 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
5 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
6 invalid or ineffective.

7 SECTION 6: All ordinances or parts of ordinances or sections, subsections, phrases,
8 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
9 1983 Edition, in conflict herewith are hereby repealed.

10 PASSED, ADOPTED and APPROVED this _____ day of _____, 2010.

11 APPROVED:

12
13 By _____
OSCAR B. GOODMAN, Mayor

14 ATTEST:

15 _____
16 BEVERLY K. BRIDGES, MMC
City Clerk

17 APPROVED AS TO FORM:

18 *Val Steed* 5-20-10
19 Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 _____ day of _____, 2010, 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 _____, 2010, 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:

13

14 By _____
OSCAR B. GOODMAN, Mayor

15 ATTEST:

16

17 BEVERLY K. BRIDGES, MMC
City Clerk

18

19

20

21

22

23

24

25

26

27

28