

1 FIRST AMENDMENT

2 BILL NO. 2011-29

3 ORDINANCE NO. _____

4 AN ORDINANCE TO UPDATE CHAPTER 6.06 OF THE MUNICIPAL CODE RELATING TO
5 PRIVILEGED LICENSES, AND TO PROVIDE FOR OTHER RELATED MATTERS.

6 Proposed by: Flinn Fagg, Director of Planning Summary: Updates Chapter 6.06 of the
7 Municipal Code relating to privileged licenses.

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

10 SECTION 1: Title 6, Chapter 6, Section 50, of the Municipal Code of the City of Las
11 Vegas, Nevada, 1983 Edition, is hereby repealed in its entirety.

12 SECTION 2: Title 6, Chapter 6, Section 70, of the Municipal Code of the City of Las
13 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

14 **6.06.070:** (A) The application for approval for suitability shall be filed with the Department
15 [of Business Activity] on forms acceptable to the Department. The applicant shall furnish all the
16 information required by the Department, including but not limited to:

- 17 (1) The applicant's personal and family history;
- 18 (2) If requested by the Department in accordance with a written policy
19 established by the Director, [The] the applicant's present and past financial position and history;
- 20 (3) The applicant's criminal history and civil and administrative litigation
21 history;
- 22 (4) The applicant's education, training, employment, business and
23 professional history; and
- 24 (5) The applicant's past and proposed affiliation with the licensee.

25 (B) The Department is authorized to require disclosure of any information that
26 reasonably relates to the applicant's qualification, acceptability or fitness for an approval for
27 suitability.

28 SECTION 3: Title 6, Chapter 6, Section 80, of the Municipal Code of the City of Las

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

6.06.080: (A) The application must be signed and verified by the applicant under oath.

(B) The applicant shall submit to fingerprinting and photographing, shall authorize the City in writing to obtain information from the past and present employers, criminal justice agencies, financial institutions, Federal, State and local governments and agencies, and other persons and entities, and shall consent in writing to the release of such information to the City for use in connection with the application for approval for suitability and other City business regulations. The applicant shall also sign a release of claims and a hold harmless agreement to the City for its use of the information provided by the applicant or discovered during any investigation thereof.

(C) Each applicant for a license within the following categories shall be subject to the provisions of Subsection (D) of this Section:

- (1) Adult nightclub establishment;
- (2) Alcoholic beverage;
- (3) Burglar alarm services;
- (4) [Child care facility;
- (5)] Erotic dance establishment;
- [(6)] (5) Gaming;
- [(7)] (6) Ice cream truck;
- [(8)] (7) Locksmith and safe mechanic;
- [(9)] (8) Martial arts instruction;
- [(10)] (9) Massage establishment;
- [(11)] (10) Mobile food vendor;
- [(12)] (11) Pawnbroker;
- [(13)] (12) Psychic arts and science;
- [(14)] (13) Reflexology;
- [(15)] (14) Secondhand dealer;
- [(16)] (15) Teenage dancehall or teenage nightclub; and
- [(17)] (16) Wedding chapel.

1 (D) In the case of the license categories listed in Subsection (C) of this Section,
2 applicants are required to submit to fingerprinting for purposes of a fingerprint check through the
3 Federal Bureau of Investigation (FBI). In each such case:

4 (1) A complete set of fingerprints will be taken and will be forwarded to
5 the Central Repository for Nevada Records of Criminal History.

6 (2) The Central Repository for Nevada Records of Criminal History is
7 authorized to submit the fingerprints to the FBI for its report and to exchange fingerprint data with the
8 FBI.

9 (3) The purpose for the submission of fingerprints is to allow for a State and
10 Federal criminal records investigation regarding the applicant to determine suitability for licensing
11 relative to the specified type of business.

12 (E) The provisions of Subsections (C) and (D) of this Section are adopted under
13 the authority of, and consistent with, NRS 239B.010(1)(a) and Public Law 92-544, and should be read
14 and interpreted in connection therewith.

15 SECTION 4: Title 6, Chapter 6, Section 110, of the Municipal Code of the City of
16 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

17 **6.06.110:** (A) Except as otherwise provided in Subsection (B), [After] after receipt of [the]
18 a completed application for a license or approval for suitability, the Director shall refer the [matter]
19 application to Metro for investigation.

20 (B) The Director shall have the discretion not to refer an application to Metro if the
21 applicant has been investigated by Metro in connection with licensing or suitability approval within
22 one year before the application was submitted, or if the Director otherwise determines that such
23 referral is not necessary or appropriate. The discretion afforded the Director in this Subsection shall
24 be exercised in accordance with a written policy established by the Director.

25 (C) Upon completion of [the] any investigation[,] or a determination made pursuant
26 to Subsection (B), the Director shall submit the application to the City Council for its [actions.] action.

27 (D) In the event the City Council has issued a temporary license pursuant to this
28 Chapter[,], pending an investigation by Metro, the Director may, upon receipt of Metro's completed

1 investigation, submit the application for a license to the City Council for its action at any time prior
2 to the expiration of the temporary license.

3 SECTION 5: Title 6, Chapter 6, Section 125, of the Municipal Code of the City of
4 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

5 **6.06.125:** (A) Once initial approval for suitability [has been made] regarding principals of a
6 particular licensee has been granted by the City Council, subsequent applications for approval for
7 suitability regarding that licensee may be referred by the Director to Metro for investigation.

8 (B) Upon completion of Metro's investigation, if any, the Director may take such
9 action as deemed appropriate, including approval, conditional approval or denial of the application
10 for approval for suitability.

11 (C) An applicant may appeal the decision of the Director in accordance with the
12 provisions of LVMC 6.02.110.

13 SECTION 6: Title 6, Chapter 6, Section 130, of the Municipal Code of the City of
14 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

15 **6.06.130:** [Notwithstanding Section 6.06.050, the] The Director may waive for one or more
16 principals [from] the requirement of approval for suitability, provided that at least one principal other
17 than a manager must be subject to the requirement of an approval for suitability. Any principal [who]
18 for whom the requirement has been so waived may later be required at the discretion of the Director
19 to apply and be found suitable in order to continue his or her association with the business.

20 SECTION 7: Title 6, Chapter 6, Section 200, of the Municipal Code of the City of
21 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

22 **6.06.200:** (A) The applicant has a continuing duty and obligation to notify the Department [in
23 writing within fifteen days] of additions, deletions, changes or modifications in the information
24 furnished the Department, and this duty continues as long as a valid license or approval for suitability
25 remains in effect. Such notification must be given at least fifteen days in advance of such additions,
26 deletions, changes or modifications where it possible to do so. Otherwise, notification must be given
27 as soon as possible and in no event later than fifteen days following the addition, deletion, change or
28 modification.

1 (B) [The Director shall send a written notice requiring that an application for a new
2 business license be filed by a licensee if the Director determines that the reported changes in the
3 information from that contained in the licensee's original application or subsequent information
4 updates constitutes a substantial change in the business operations from those originally or
5 subsequently approved.

6 (C) A licensee shall file a new business license application with the Department,
7 within fifteen days after receiving the Director's written request. Upon receipt of the new application,
8 the Director shall place it on the next available City Council agenda for review and action, subject to
9 the requirements of the Nevada open meeting law.] The notification required by Subsection (A) shall
10 be in the form of a new business license application filed with the Department. Upon receipt of an
11 application, the Department shall determine whether the changes can be approved by administrative
12 action or whether action by the City Council is required pursuant to LVMC 6.06.210. If Council
13 action is required, the application will be placed on the next available Council agenda following the
14 completion of all necessary reviews by City departments and outside agencies.

15 [(D)] (C) In cases where a licensee has significantly altered its business operations, [The]
16 the Director may require a licensee to suspend its [altered business] operations until the City Council
17 has acted upon [a] the licensee's new license application. [Notice of the suspension shall be included
18 in the notice required pursuant to Subsection (B) of this Section.]

19 [(E)] (D) A licensee shall not continue or resume its altered operations if the City Council
20 finds that [they are] the licensee is in violation of the provisions of LVMC 6.02.090 and 6.02.330
21 through 6.02.350, or for other good cause [they] finds that continued business operations should not
22 be permitted.

23 SECTION 8: Title 6, Chapter 6, Section 210, of the Municipal Code of the City of
24 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

25 **6.06.210:** Prior approval must be obtained [from the City Council] for a licensee or [a holder of
26 approval] person approved for suitability to do any of the following acts:

27 (A) Convey the license from one person to another[;] or establish the license in a
28 different entity;

1 (B) [Change the location of a license from one premises to another premises within
2 the City limits;

3 (C) Change the name of the business operating under a license; or

4 (D)] Transfer any ownership interest or voting control to a person who, because of
5 the transfer, would be required to be approved for suitability[.] ;

6 (C) Alter the licensed business operations in a significant way from the operations
7 previously approved;

8 (D) Change the location of a license from one premises to another premises within
9 the City limits;

10 (E) Change the name of the business operating under a license.

11 Such prior approval may be granted by the Director in the case of the changes described in Subsections
12 (D) and (E), but must be granted by the City Council otherwise.

13 SECTION 9: Title 6, Chapter 6, Section 230, of the Municipal Code of the City of
14 Las Vegas, Nevada, 1983 Edition, is hereby repealed in its entirety.

15 SECTION 10: Title 6, Chapter 6, Section 240, of the Municipal Code of the City of
16 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

17 **6.06.240:** Each licensee must notify the Department [of Finance and Business Services] at least
18 thirty days prior to transferring or recognizing the transfer of any ownership interest or voting control
19 which results in a person acquiring an ownership interest or voting control equal to or greater than ten
20 percent of the entire ownership in or voting control of the licensee or prior to subjecting any of its
21 assets, income or revenue to any security interest or other encumbrance.

22 SECTION 11: Title 6, Chapter 6, Section 250, of the Municipal Code of the City of
23 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

24 **6.06.250:** (A) A licensee may be subject to disciplinary action as set forth in Sections 6.02.330
25 through 6.02.360.

26 (B) A principal approved for suitability may be subject to disciplinary action by the
27 City Council for good cause, which may include, but is not limited to:

28 (1) The application is incomplete or contains false, misleading or fraudulent

1 statements with respect to any information required in the application;

2 (2) The principal fails to satisfy any qualification or requirement imposed
3 by this Code, or other local, State or Federal law or regulation pertaining to the particular approval for
4 suitability sought or held;

5 (3) The principal illegally resides in the United States;

6 (4) The principal is or has engaged in a business, trade or profession without
7 a valid license, permit, approval for suitability or work card when he knew that one was required or
8 under such circumstances that he reasonably should have known one was required;

9 (5) The principal has been subject, in any jurisdiction, to disciplinary
10 action of any kind against a license, permit, approval for suitability or work card to the extent that such
11 disciplinary action reflects on the qualification, acceptability or fitness to be approved for suitability;

12 (6) The principal has committed acts which would constitute a crime
13 involving moral turpitude or involving any Federal, State or local law or regulation relating to the
14 same or a similar business[;]. For purposes of this Paragraph, a crime involving moral turpitude is one
15 that necessarily involves any of the following: an intent to defraud; intentional dishonesty for personal
16 gain; intentional causing of serious injury to another person; the sale of narcotics or possession of
17 narcotics with intent to sell; or a sexual offense as described in NRS 179D.097;

18 (7) When substantial information exists which tends to show that the
19 principal is dishonest or corrupt;

20 (8) The principal lacks sufficient financial, technical or educational ability
21 or experience to conduct or perform the activity for which approval for suitability is sought;

22 (9) The principal, or his or her employees or those acting on their behalf,
23 violates any condition upon which approval for suitability was granted;

24 (10) The principal has engaged in deceptive practices upon the public; or

25 (11) The principal suffers from a legal disability under the laws of the State.

26 SECTION 12: If any section, subsection, subdivision, paragraph, sentence, clause or
27 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
28 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or

1 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
2 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
3 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
4 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
5 invalid or ineffective.

6 SECTION 13: Whenever in this ordinance any act is prohibited or is made or declared
7 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
8 required or the failure to do any act is made or declared to be unlawful or an offense or a
9 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
10 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
11 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
12 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

13 SECTION 14: All ordinances or parts of ordinances or sections, subsections, phrases,
14 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
15 1983 Edition, in conflict herewith are hereby repealed.

16 PASSED, ADOPTED and APPROVED this ____ day of _____, 2011.

17 APPROVED:

18 By _____
19 CAROLYN G. GOODMAN, Mayor

20 ATTEST:

21 BEVERLY K. BRIDGES, MMC
City Clerk

22 APPROVED AS TO FORM:

23 Val Steed 7-19-11
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2011, 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 _____, 2011, 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 amended and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

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12 APPROVED:

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14 By _____
CAROLYN G. GOODMAN, Mayor

15 ATTEST:

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17 BEVERLY K. BRIDGES, MMC
City Clerk

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