

FIRST AMENDMENT

BILL NO. 2011-37

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE BUSINESS LICENSING PROVISIONS TO ADJUST THE REGULATORY AND FEE PROVISIONS THAT APPLY TO CERTAIN PROFESSIONAL BUSINESSES AND EMPLOYEES OF SUCH BUSINESSES, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Flinn Fagg, Director of Planning

Summary: Amends the business licensing provisions to adjust the regulatory and fee provisions that apply to certain professional businesses and employees of such businesses.

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

SECTION 1: Title 6, Chapter 2, Section 10, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.02.010: Unless the context otherwise requires, the scope of all words in this Title shall be liberally construed in order to effectuate the purposes of this Title. In particular, the following words shall have the meaning ascribed to them as follows:

“Applicant” means any person who has applied for a City business license, approval of suitability, work card or any permit.

“Business” means any business, commercial enterprise, trade, occupation, calling, profession, vocation or activity engaged in, conducted, carried on, advertised or marketed, by any person, his agent or employee for the purpose of gain, benefit or advantage, either direct or indirect.

“Department” means the Department of [Finance and Business Services.] Planning.

“Director” means the Director of the Department of [Finance and Business Services] Planning and those persons authorized [by him] to act in [his] the Director’s behalf.

“Employee” means any person who performs services for another for hire, salary, wages or any other kind of compensation, whether or not the services are casual, temporary or permanent, and whether or not the contract of service is express or implied, oral or written.

“Establishment” means any business conducted in or upon any premises, and includes any

Submitted At Meeting

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by VAL STEED

1 buildings, improvements, equipment and facilities used or maintained in connection with such
2 business.

3 "Governmental entity" means an entity of Federal, State or local government whose activities
4 are exempt from Federal income taxation.

5 "Gross sales/gross revenues," as used in connection with the determination of license [taxes,]
6 fees, means the total amount of the sale price of all goods sold, the total amount charged or received
7 for the performance of any act, service or employment, of whatever nature it may be, whether or not
8 such service, act or employment is performed as part of or in connection with the sale of goods, wares
9 or merchandise for which a charge is made or credit allowed, including all receipts, cash, credits or
10 property of any kind, any amount for which credit is allowed by the seller to the purchaser without any
11 deduction therefrom on account of the cost of property of any kind, any amount for which credit is
12 allowed by the seller to the purchaser without any deduction therefrom on account of the cost of
13 property sold, cost of materials used, labor or service costs, interest paid or payable, losses or any other
14 expense whatsoever.

15 (A) The term gross sales/gross revenue shall not include:

16 (1) Cash discounts which are allowed or taken on sales/revenue;

17 (2) Over-allowance on trade-ins of used merchandise, cars or goods which
18 are received in trade for the purchase of new merchandise, cars or goods. For purposes of this
19 definition, "over-allowance" means the amount which is allowed on any trade-in which is in excess
20 of the actual sale price of the trade-in by the dealer, whether that sale is wholesale, retail or at auction.
21 In order for a dealer of new merchandise, cars or goods to substantiate deductions for over-allowances,
22 a separate general ledger account must be maintained which accumulates the total over-allowances.
23 This account must be supported by a cash receipt journal or similar journal which summarizes the
24 daily transactions. Each daily entry must be supported by the original contract which clearly
25 substantiates the difference between the actual sales price and the allowance which is given to the
26 customer on the trade-in;

27 (3) Inventory transfers between dealers of new merchandise, cars or goods
28 and their wholly owned leasing companies, wherein no profit is involved. In order for a dealer of new

1 merchandise, cars or goods to substantiate deductions for inventory transfers, a separate account must
2 be maintained in the general ledger for all merchandise, cars or goods which are transferred to its
3 wholly owned leasing company. These transactions must be traceable to a cash receipt journal or
4 similar journal which summarizes daily transactions. Each daily entry must be supported by
5 paperwork which legally transfers the new merchandise, car or goods to the leasing company;

6 (4) Any tax on fuel or retail sales that is collected by the seller; and

7 (5) Any charge between a purchaser and seller where, at the time a license
8 fee is due, the purchaser and seller are related entities as defined in Section 267 of the Internal
9 Revenue Code.

10 "Health District" means the Southern Nevada Health District.

11 "License" means permission granted by the licensing authority to engage in the business for
12 which the license is issued[.], which permission typically is evidenced by a written document.

13 "Licensee" means any person to whom a valid license has been issued pursuant to this Title.

14 "License fee" [or "license tax"] means any money required by law to be paid to obtain, renew
15 or maintain a license.

16 "Metro" means the Las Vegas Metropolitan Police Department.

17 "Person" includes any association, corporation, firm, partnership, trust or other form of
18 business or social association or organization, as well as a natural person and the estate of a natural
19 person.

20 "Personal representative" means any person authorized to act on behalf of the estate of a
21 natural person.

22 "Premises" means land together with all buildings, appurtenances, improvements, parking
23 areas and personal property located thereon.

24 "Principal" means:

25 (A) Any person who is an officer, director, trustee, personal representative or
26 general partner or who has an ownership interest in or voting control of the business equal to or greater
27 than ten percent of the entire ownership of voting control of such business. If the ownership interest
28 or voting control is held by a person other than an individual, then each officer, director, trustee,

1 personal representative or general partner of such person is a principal;

2 (B) Any person who is or will be directly engaged in the administration or
3 supervision of the business; and

4 (C) Any other person if, in the Director's opinion, the person exercises, or is
5 capable of exercising, significant influence over the business.

6 "Professional" means a person who:

7 (A) Holds a license, certificate, registration, permit or similar type of authorization
8 issued by a State regulatory body as defined in NRS 622.060, or who is regulated pursuant to the
9 Nevada Supreme Court Rules; and

10 (B) Practices his or her profession for any type of compensation as an employee[.]
11 of a professional business. The term ["employee"] "employee of a professional business," for the
12 purposes of this definition, includes an owner, sole proprietor, member, partner or associate of a
13 professional business[.], but does not include a person who, under a contractual arrangement with a
14 professional business, provides services for or in association with that business as an independent
15 contractor.

16 "Professional business" means a business which:

17 (A) Holds itself out as offering services regarding one or more of the professions
18 regulated by a State regulatory body as defined in NRS 622.060 or by Nevada Supreme Court Rules;
19 and

20 (B) [Employs one or more professionals to provide] Provides such services[.]
21 through the business's principals, professionals, or others qualified under State law or Nevada
22 Supreme Court Rules to provide such services.

23 For purposes of licensing and the payment of business license fees, the term includes the business
24 activities of a person who provides or offers to provide such services in association with, and by
25 means of an independent contractor relationship with, another professional business providing those
26 services.

27 "Valid unexpired license" means a license that has not been suspended or revoked before its
28 expiration date.

1 SECTION 2: Title 6, Chapter 4, Section 65, of the Municipal Code of the City of Las
2 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

3 **6.04.065:** (A) Unless otherwise provided in this Chapter, each professional business located
4 in the City shall pay an annual business license fee, based on the number of professionals it employs,
5 at the rate of two hundred dollars for the first professional and one hundred [and] fifty dollars for each
6 additional professional. [For administrative purposes, the City may opt to bill for these business
7 license fees on a semiannual basis.]

8 (B) Each professional business located outside of the City and which does business
9 in the City shall pay an annual business license fee of two hundred dollars.

10 (C) Each professional business that consists of an individual who meets the
11 following criteria shall pay an annual business license fee of one hundred fifty dollars:

12 (1) Acts as a real estate broker-salesperson, real estate salesperson or
13 property manager under NRS Chapter 645, or any combination thereof;

14 (2) Works out of a location within the City or, in the case of a person acting
15 as a property manager, either works out of a location within the City or manages property located
16 within the City; and

17 (3) Is associated with a real estate broker licensed under NRS Chapter 645
18 by means of an independent contractor relationship.

19 [(C)] (D) In accordance with Section 6.04.005, each professional business shall pay a
20 semiannual business license fee based on its gross sales of products or services within the City not
21 related to or required in the performance of professional services.

22 [(D)] (E) Each professional business shall pay whichever is greater, an annual license fee
23 sed on its gross revenue or a license fee based on a flat amount per professional [employee] pursuant
24 to Subsection (A) of this Section if there are more than one hundred [professional employees]
25 professionals working for the professional business.

26 SECTION 3: Title 6 of the Municipal Code of the City of Las Vegas, Nevada, 1983
27 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 64, consisting of
28 Section 10 thereof, reading as follows:

1 **6.64.010:** Each professional business that offers or provides real estate brokerage, real estate
2 sales, or property management services within the City through one or more independent contractors
3 shall be responsible for ensuring that each such independent contractor is properly licensed with the
4 City. Failure to ensure such licensing shall subject the license of the professional business to
5 disciplinary action, in addition to any other remedy available to the City. The Director may also
6 impose a fine on the professional business in the amount of three hundred dollars for each independent
7 contractor that is not properly licensed by the City, which fine can be reimposed annually until
8 compliance is achieved. The imposition of such a fine may be appealed to the City Manager or a
9 designee, which may include an independent hearing examiner that may be appointed for the purpose
10 of such appeals.

11 SECTION 4: If any section, subsection, subdivision, paragraph, sentence, clause or
12 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
13 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
14 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
15 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
16 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
17 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
18 invalid or ineffective.

19 SECTION 5: Whenever in this ordinance any act is prohibited or is made or declared
20 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
21 required or the failure to do any act is made or declared to be unlawful or an offense or a
22 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
23 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
24 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
25 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

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

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

APPROVED:

By CAROLYN G. GOODMAN, Mayor

BEVERLY K. BRIDGES, MMC
City Clerk

APPROVED AS TO FORM:

Val Steed 10-31-11
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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APPROVED:

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By _____
CAROLYN G. GOODMAN, Mayor

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ATTEST:

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BEVERLY K. BRIDGES, MMC
City Clerk

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