

City of Las Vegas

**RECOMMENDING COMMITTEE MEETING
CITY HALL, 400 STEWART AVENUE
CITY MANAGER'S EIGHTH FLOOR CONFERENCE ROOM
CITY OF LAS VEGAS INTERNET ADDRESS: www.lasvegasnevada.gov
OCTOBER 18, 2011
9:00 A.M.**

THE RECOMMENDING COMMITTEE WILL RECEIVE PUBLIC INPUT ON EACH ITEM OF LEGISLATION BEING CONSIDERED. THE RECOMMENDING COMMITTEE MAY, THEREAFTER, CONTINUE THE HEARING TO A FUTURE DATE OR FORMULATE A RECOMMENDATION TO THE CITY COUNCIL FOR PASSAGE, REJECTION OR AMENDMENT OF THE PROPOSED BILL. ANY MEMBER OF THE CITY COUNCIL MAY SUBSTITUTE FOR A MEMBER OF THE RECOMMENDING COMMITTEE AT ANY TIME.

ALL ITEMS ON THIS AGENDA ARE SCHEDULED FOR ACTION UNLESS SPECIFICALLY NOTED OTHERWISE. ITEMS LISTED ON THE AGENDA MAY BE TAKEN OUT OF ORDER PRESENTED; TWO OR MORE AGENDA ITEMS FOR CONSIDERATION MAY BE COMBINED; AND ANY ITEM ON THE AGENDA MAY BE REMOVED OR RELATED DISCUSSION MAY BE DELAYED AT ANY TIME.

DUPLICATE AUDIO CDS MAY BE AVAILABLE AT A COST OF \$5.00 EACH THROUGH THE CITY CLERK'S OFFICE.

1. CALL TO ORDER
2. ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW
3. Bill No. 2011-36 - For Possible Action - Updates Chapter 6.02 of the Municipal Code relating to business licensing generally. Proposed by: Flinn Fagg, Director of Planning
4. Bill No. 2011-37 - For Possible Action - Amends the business licensing provisions to adjust the regulatory and fee provisions that apply to certain professional businesses and employees of such businesses. Proposed by: Flinn Fagg, Director of Planning
5. CITIZENS PARTICIPATION: Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the committee. No subject may be acted upon by the committee unless that subject is on the agenda and is scheduled for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited
6. ADJOURNMENT

ALL INTERESTED PERSONS ARE INVITED TO ATTEND: Copies of the above Bills may be obtained through the Office of the City Clerk, Monday through Thursday, 7:00 A.M. to 5:30 P.M.

City of Las Vegas

Facilities are provided throughout City Hall for the convenience of disabled persons. Reasonable efforts will be made to assist and accommodate physically handicapped persons. If you need an accommodation to attend and participate in this meeting, please call the City Clerk's office at 229-6311 and advise of your need at least 48 hours in advance of the meeting.

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS:

City Hall Plaza, 400 Stewart Avenue, Vending Area
City Clerk's Bulletin Board, 400 Stewart Avenue, 2nd Floor Skybridge
Las Vegas Library, 833 Las Vegas Boulevard North
Clark County Government Center, 500 S. Grand Central Parkway
Grant Sawyer Building, 555 E. Washington Avenue

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 18, 2011

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

CALL TO ORDER



AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 18, 2011

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SUBJECT:

ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW



AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 18, 2011

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2011-36 - For Possible Action - Updates Chapter 6.02 of the Municipal Code relating to business licensing generally. Proposed by: Flinn Fagg, Director of Planning

Fiscal Impact

☒

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will update Chapter 6.02 of the Municipal Code relating to business licensing generally. Most of the changes are housekeeping or clarifying in nature. The bill clarifies the rights of appeal regarding certain administrative actions and includes provisions allowing additional flexibility in the repayment of delinquent fee amounts determined to be owing during an audit. In accordance with State law, the bill also authorizes the issuance of multi-jurisdictional licenses under specified circumstances.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2011-36
2. Business Impact Statement

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1 are exempt from Federal income taxation.

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

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

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

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

24 (3) Inventory transfers between dealers of new merchandise, cars or goods
25 and their wholly owned leasing companies, wherein no profit is involved. In order for a dealer of new
26 merchandise, cars or goods to substantiate deductions for inventory transfers, a separate account must
27 be maintained in the general ledger for all merchandise, cars or goods which are transferred to its
28 wholly owned leasing company. These transactions must be traceable to a cash receipt journal or

1 similar journal which summarizes daily transactions. Each daily entry must be supported by
2 paperwork which legally transfers the new merchandise, car or goods to the leasing company;

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

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

7 “Health District” means the Southern Nevada Health District.

8 “License” means permission granted by the licensing authority to engage in the business for
9 which the license is issued[.], which permission typically is evidenced by a written document.

10 “Licensee” means any person to whom a valid license has been issued pursuant to this Title.

11 “License fee” [or “license tax”] means any money required by law to be paid to obtain, renew
12 or maintain a license.

13 “Metro” means the Las Vegas Metropolitan Police Department.

14 “Person” includes any association, corporation, firm, partnership, trust or other form of
15 business or social association or organization, as well as a natural person and the estate of a natural
16 person.

17 “Personal representative” means any person authorized to act on behalf of the estate of a
18 natural person.

19 “Premises” means land together with all buildings, appurtenances, improvements, parking
20 areas and personal property located thereon.

21 “Principal” means:

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

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

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

3 "Professional" means a person who:

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

7 (B) Practices his or her profession for any type of compensation as an employee.
8 The term "employee" for the purposes of this definition, includes an owner, sole proprietor, member,
9 partner or associate of a professional business.

10 "Professional business" means a business which:

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

14 (B) Employs one or more professionals to provide such services.

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

17 SECTION 2: Title 6, Chapter 2, Section 20, of the Municipal Code of the City of Las
18 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

19 **6.02.020:** (A) The Department shall have the jurisdiction to investigate and enforce the
20 provisions of this Title, Title 9 and the provisions of Title 19 as they relate to the use of land by, and
21 impact of, businesses, professions and occupations.

22 (B) The Department shall have all powers which may be necessary or appropriate
23 for a complete and effective exercise of its jurisdiction, including, but not limited to:

24 (1) The power to enter and inspect the licensed premises at any time during
25 the business hours of the licensee;

26 (2) The power to examine and audit all books and other business records
27 of a principal, licensee, applicant, or their employees or other persons acting under their control[;] for
28 purposes of determining ownership, the proper payment of license fees, and other issues relating to

1 compliance with this Title;

2 (3) The power to apply for and execute administrative search warrants based
3 upon reasonable suspicion of a violation of this Title, Title 9 or Title 19;

4 (4) The power to issue citations pursuant to the provisions of NRS Chapter
5 171 for violations of this Title, Title 9 or Title 19;

6 (5) The power to issue, revoke, suspend or deny a business license, or
7 temporary business license, as provided in this Chapter;

8 (6) The authority to make expenditures as reasonably necessary to
9 investigate a violation of this Title, Title 9 or Title 19; and

10 (7) The power to assess the following to a licensee for re-inspections after
11 the initial inspection reveals violations of this Title, Title 9, or Title 19:

12 (a) A service charge of ninety dollars for the initial re-inspection,
13 if the licensee or its representative has not corrected or caused the correction of all violations to the
14 Department's satisfaction by the established re-inspection date, such charge to reflect the partial cost
15 of staff time and City resources;

16 (b) A service charge of one hundred twenty dollars for each
17 subsequent re-inspection until all violations have been corrected to the Department's satisfaction, such
18 charge to reflect the partial cost of staff time and City resources; and

19 (c) An administrative fee of ten percent of the amount of service
20 charges assessed under Subparagraphs (a) and (b) above, to cover administrative costs of billing and
21 receipting;

22 (C) The Department shall provide the licensee or its representative an appropriate
23 billing to reflect service charges and administrative fees assessed under Paragraph (7) of Subsection
24 (B) above. The billing shall include the date by which payment must be made, which must be at least
25 sixty days after the billing is provided. If payment is not made by the date specified, the City may
26 proceed to collect the amounts assessed in accordance with LVMC 6.02.250. Notwithstanding the
27 provisions of this Subsection (C), the licensee or its representative may appeal the assessment of
28 service charges and administrative fees, including the underlying determination that violations have

1 occurred, by filing a written appeal with the Department within ten days after the billing is provided
2 to the licensee[.] or its representative. A hearing on the appeal will be conducted by the City Manager
3 (or the City Manager's designee) within ten days after the appeal is filed, unless otherwise agreed to
4 by the licensee and the person conducting the hearing. The period for payment is tolled during the
5 pendency of an appeal.

6 (D) The Department is authorized to require identification or other information from
7 a principal, licensee, applicant, or their employees or other persons acting under their control, at any
8 time in furtherance of the exercise of its jurisdiction.

9 (E) During the course of investigating any crime or assisting in the enforcement of
10 this Code, Metro has concurrent jurisdiction and authority to issue citations for the violations of this
11 Title, Title 9 or Title 19.

12 SECTION 3: Title 6, Chapter 2, Section 35, of the Municipal Code of the City of Las
13 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

14 **6.02.035:** (A) Notwithstanding any other provision of this Title, the Director shall have the
15 authority to extend temporary licensing approval beyond that otherwise available under this Title in
16 cases where unforeseen circumstances, such as technical or agenda-related difficulties, prevent
17 Council action from being taken in a timely fashion. Unless the circumstances otherwise dictate, the
18 extension of temporary licensing approval shall not extend beyond the next occasion at which Council
19 consideration can properly take place.

20 (B) Except as otherwise approved by the Director, [No] no temporary license issued
21 under this Title may be sold, transferred or assigned while under temporary status.

22 (C) The holder of a license under temporary status may request that the license be
23 withdrawn or put into inactive or non-operational status, but the request shall not be deemed granted
24 until affirmative action to do so has been taken by the Director.

25 SECTION 4: Title 6, Chapter 2, Section 60, of the Municipal Code of the City of Las
26 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

27 **6.02.060:** (A) It is unlawful for any person to:

28 (1) Commence, institute, advertise, aid, carry on, engage in or continue in

1 the City any business without a valid unexpired license issued pursuant to this Code;

2 (2) Cause, encourage, allow or permit another, on that person's behalf, to
3 commence, institute, advertise, aid, carry on, engage in or continue in the City any business without
4 a valid unexpired license issued pursuant to this Code; or

5 (3) Commence, institute, advertise, aid, conduct, manage or carry on, either
6 permanently or temporarily, any business of any other person if the person who commences, institutes,
7 advertises, aids, conducts, manages or carries on such business knows or should know that such other
8 person is not licensed under this Title to commence, institute, advertise, aid, conduct, manage or carry
9 on such business.

10 (B) Each day or portion thereof in which a violation of any provision of Subsection
11 (A) of this Section is committed, continued or permitted constitutes a separate offense.

12 (C) All licenses issued under this Chapter:

13 (1) Shall be conditioned upon the obligation of the applicant, the licensee,
14 the principal, their employees and those acting on their behalf to refrain from exercising deliberate
15 ignorance toward any private nuisance, public nuisance or chronic nuisance activity occurring at, or
16 arising from, the business location or activity, and to timely abate such nuisances. Deliberate
17 ignorance is exhibited by intentional or criminally negligent disregard of the offending condition or
18 activity. Deliberate ignorance is done in a criminally negligent manner if it jeopardizes another's
19 health, safety or welfare; interferes with the objectively reasonable use and enjoyment of adjacent
20 property or any public property; or has a detrimental effect upon adjacent property values; and

21 (2) May also be conditioned upon the licensee posting a bond in an amount
22 determined by the Director to be reasonably appropriate to guarantee the performance or fulfillment
23 of all conditions, or compliance with all restrictions, imposed upon the license, licensee, applicant or
24 its principal(s).

25 (D) A multi-jurisdictional license may be issued within specifically-identified
26 categories to those businesses whose intent is to operate in more than one licensing jurisdiction within
27 the Southern Nevada area. Issuance of this license may by local ordinances or by an interlocal
28 agreement between or among participating jurisdictions. One license fee which is the congregate of

1 the license fees of all participating jurisdictions will be collected by the jurisdiction in which the home
2 base of operation for the licensing applicant is located. The fee will be proportionately distributed
3 based on the fee schedule for each jurisdiction. Notwithstanding any provision of this Title, the
4 Director is authorized, but not required, to establish license renewal cycles specifically applicable to
5 each category and to prorate license fees in the following circumstances:

6 (1) In connection with applying new multi-jurisdictional license provisions
7 to existing licenses;

8 (2) Upon the initial issuance of a new multi-jurisdictional license; or

9 (3) Upon the addition a participating jurisdiction to an existing multi-
10 jurisdictional license.

11 SECTION 5: 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 in this Title, including
14 the imposition of any license fee, [or license tax,] shall be deemed or construed to apply to any:

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

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

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

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

27 (E) Professional person licensed by the State who works solely either as a principal
28 or employee for a nonprofit professional services organization that has tax exempt status pursuant to

1 Title 26 U.S.C. Section 501(c), if such organization provides all of its professional services to the
2 public at no cost; or

3 (F) [Government] Governmental entity or professional person licensed by the State
4 who works solely as an employee of a [government] governmental entity.

5 SECTION 6: Title 6, Chapter 2, Section 80, of the Municipal Code of the City of Las
6 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

7 **6.02.080:** (A) Any person who desires to engage in business shall first apply for and obtain
8 the appropriate license[.] or licenses. The license application shall be filed with the Department on
9 forms acceptable to the Department. The applicant shall furnish all the information required by the
10 Department including, but not limited to:

11 (1) The applicant's business organization and structure, including the names
12 and addresses of any and all on-site or off-site managers responsible for timely abatement of any and
13 all nuisance activity at the business location;

14 (2) The proposed physical business location and specific activity or
15 operation to which the business is limited;

16 (3) The name and specific physical and mailing addresses of each principal
17 sufficient to allow them to be contacted as necessary to address or be held accountable for the timely
18 fulfillment of restrictions and conditions on the license or the timely abatement of any nuisance
19 activity at the business location(s);

20 (4) Copies of all other licenses or permits required by local, State or Federal
21 law to engage in the proposed business, including any description of limitations, conditions or
22 restrictions thereon; and

23 (5) Any other information that reasonably relates, or may lead to
24 information that reasonably relates, to the applicant's or a principal's qualification, acceptability or
25 fitness for a license.

26 (B) The applicant must sign the application for license acknowledging that all the
27 information furnished by the applicant is true, accurate and current, that he or she is aware of the
28 obligation to provide timely notice of any changes in required information, and that he or she has

1 informed all principals of their joint and several responsibility for the timely fulfillment of restrictions
2 and conditions to the license or timely abatement of any nuisance activity at the business location(s).

3 SECTION 7: Title 6, Chapter 2, Section 90, of the Municipal Code of the City of Las
4 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

5 **6.02.090:** (A) Other than an application for a license which requires prior approval by an
6 agency of the State, an application for a license which requires formal approval of the Council to
7 which the exemptions in LVMC 6.02.070(E)(1) - (4) do not apply, or a license that is subject to the
8 provisions of LVMC Chapter 6.06, the Director, not more than thirty calendar days after receipt of an
9 application for a license, shall approve with or without conditions, deny or take such other action with
10 respect to such application as the Director considers appropriate. The Director may consult with other
11 City departments and agencies with jurisdiction in order to determine what action is appropriate. In
12 the event that any other department or agency that the Director consults regarding an application is
13 unable to complete its review thereof in time for the Director to comply with such thirty-calendar-day
14 requirement, the Director shall issue a temporary license as provided in LVMC 6.02.070. The
15 Director may:

16 (1) Deny an applicant a license if:

17 (a) The application is incomplete or the application or supplemental
18 application information furnished pursuant to the written request of the Director contains false,
19 misleading or fraudulent statements with respect to any information that is required in the application;

20 (b) The applicant, prospective licensee or any of its principals fails
21 to satisfy any qualification or requirement that is imposed by this Code, or other local, State or Federal
22 law or regulation that pertains to the particular license or approval for suitability which is sought;

23 (c) The applicant, prospective licensee or any of its principals
24 resides in the United States illegally;

25 (d) The applicant, prospective licensee or any of its principals is
26 engaged in a business, trade or profession without having obtained a valid license, an approval for
27 suitability, a permit or a work card when such applicant or any of its principals knew that one was
28 required or under such circumstances that they reasonably should have known one was required;

1 (e) The applicant, prospective licensee or any of its principals has
2 been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, an
3 approval for suitability, a permit or a work card to the extent that such disciplinary action reflects upon
4 the qualification, acceptability or fitness of the applicant, prospective licensee or any of its principals;

5 (f) The applicant, prospective licensee or any of its principals has
6 been convicted of an act that constitutes a crime which involves moral turpitude or involves any local,
7 State or Federal law or regulation which relates to the same or a similar business, or has been
8 convicted of having solicited, encouraged, caused or procured another to commit such a violation[;].
9 For purposes of this Paragraph, a crime involving moral turpitude is one that necessarily involves any
10 of the following: an intent to defraud; intentional dishonesty for personal gain; intentional causing
11 of serious injury to another person; the sale of narcotics or possession of narcotics with intent to sell;
12 or a sexual offense as described in NRS 179D.097;

13 (g) The applicant, prospective licensee or any of its principals has
14 been convicted of having perpetrated, or solicited, encouraged, caused or procured another to
15 perpetrate, deceptive practices upon the public;

16 (h) The applicant, prospective licensee or any of its principals
17 suffers from a legal disability under the laws of the State;

18 (i) The premises on which the business is proposed to be conducted,
19 or the business activity proposed to be conducted, do not satisfy local, State or Federal laws or
20 regulations which pertain to the premises or to the activity that is proposed to be engaged in;

21 (j) The proposed business activity constitutes, promotes, fosters,
22 aids or otherwise enables a private nuisance, public nuisance or chronic nuisance; or

23 (k) The required license [fee has] fees have not been paid in
24 advance.

25 (2) Decline to renew a license if:

26 (a) The licensee or any of its principals is engaged, or has
27 commenced, instituted, advertised, aided, carried on, continued or engaged, in a business, trade or
28 profession without having obtained a valid license, an approval for suitability, a permit or a work card

1 when such a person knew that one was required or under such circumstances that they reasonably
2 should have known one was required, or has solicited, encouraged, caused or procured another to do
3 so;

4 (b) The licensee, any of its principals, or their employees or those
5 acting on their behalf, have been subject, in any jurisdiction, to disciplinary action of any kind with
6 respect to a license, an approval for suitability, a permit or a work card to the extent that such
7 disciplinary action reflects upon the qualification, acceptability or fitness of such licensee or any
8 principal;

9 (c) The licensee, any of its principals, or their employees or those
10 acting on their behalf, have been convicted of an act that constitutes a crime which involves moral
11 turpitude or involves any local, State or Federal law or regulation which relates to the same or a
12 similar business, or have been convicted of having solicited, encouraged, caused or procured another
13 to commit such a violation;

14 (d) The licensee, any of its principals, or their employees or those
15 acting on their behalf, violate a condition which is imposed upon the license;

16 (e) The licensee, any of its principals, or their employees or those
17 acting on their behalf, have been convicted of having perpetrated deceptive practices upon the public;

18 (f) The licensee or any of its principals suffers from a legal
19 disability under the laws of the State;

20 (g) The premises on which the business is conducted do not satisfy
21 local, state or federal laws or regulations which pertain to the activity which is actually engaged in;

22 (h) The business activity constitutes, promotes, causes, allows,
23 fosters, aids, or otherwise enables a private nuisance, public nuisance or chronic nuisance, or has been
24 or is being conducted in an unlawful, illegal or impermissible manner, including but not limited to
25 causing, allowing, promoting, fostering, aiding, enabling, exercising deliberate ignorance towards or
26 failing to abate a private nuisance, public nuisance or chronic nuisance; or

27 (i) The required license [fee] fees for the next license period [has]
28 have not been paid in advance.

1 (B) In order to decline renewal of a license pursuant to Paragraph (2) of Subsection
2 (A) of this Section, the Director must first:

- 3 (1) Obtain the written approval of the City Attorney's Office; and
4 (2) Mail or deliver to the licensee, at least twenty-one days before the
5 licensing period expires, written notice of the nonrenewal, including a generalized statement of the
6 reasons therefor. A failure by the City Attorney's Office to respond within three business days to a
7 request for approval under this Subsection shall be deemed an approval thereunder.

8 (C) The Director shall base a decision to deny, revoke, suspend or fail to renew any
9 license sought or obtained under this Chapter upon the objective criteria set forth in Subsection (A)
10 and not upon a desire or need to suppress or censor expressive material, or to address conduct that
11 does not constitute or aid and abet criminal conduct or activity or other conduct harmful to the public
12 health, safety, welfare, morals and peace.

13 SECTION 8: Title 6, Chapter 2, Section 100, of the Municipal Code of the City of
14 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

15 **6.02.100:** Upon final approval of a new license application or license renewal and upon payment
16 of all required fees, [and taxes,] the Director shall issue a permanent license. The license shall specify
17 the classification of the license, the premises where the business is allowed, [and] the name of the
18 licensee[.], and such other information as determined by the Director.

19 SECTION 9: Title 6, Chapter 2, Section 110, of the Municipal Code of the City of
20 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

21 **6.02.110:** [Except as otherwise provided in Section 6.02.070 with respect to a temporary business
22 license, any person aggrieved by a decision of the Director denying or refusing to renew a license or
23 denying, revoking or suspending a permit may appeal that decision within thirty days to the City
24 Council by filing written notice of appeal with the Department. The City Council shall hear the
25 applicant at the next regularly scheduled meeting following the expiration of ten days after the
26 applicant filed a notice of appeal.]

27 (A) Except as otherwise provided in Subsections (B) and (C) of this Section, or in
28 Section 6.02.070 with respect to a temporary license, any person aggrieved by a decision of the

1 Director denying or suspending a license, refusing to renew a license, or denying, revoking or
2 suspending a permit may appeal that decision within ten days to the City Manager by filing written
3 notice of appeal with the Department. Such notice must be received by the Department by five
4 o'clock p.m. on the tenth day following service of notice of the Director's decision upon the applicant,
5 licensee, its principal or resident agent at the address or addresses listed in the license application.
6 Unless the City Manager finds good cause for a delay of up to ten additional days, the City Manager
7 shall hear the appeal and render a decision within ten days after the date the appeal is received by the
8 City Manager. It is the appellant's burden to present to the City Manager any and all facts and
9 mitigating circumstances in support of the appeal.

10 (B) In the event the Director's action to deny or suspend a license; refuse to renew
11 a license; or deny, revoke or suspend a permit is based upon the fact that the business activity to be
12 engaged in would be in violation of Federal or State law, no administrative appeal shall be available.

13 (C) The City Manager may designate another person, including a independent
14 hearing officer, to hear appeals under Subsection (A) of this Section, in which case the provisions of
15 that Subsection pertaining to appeals shall apply to such designee.

16 SECTION 10: Title 6, Chapter 2, Section 160, of the Municipal Code of the City of
17 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

18 **6.02.160:** (A) Unless specifically provided otherwise, all license [taxes] fees imposed by this
19 Title shall be for a semiannual period and shall be billed by the Department accordingly.

20 (B) A licensee is responsible for the payment of all applicable license fees,
21 administrative fees, service charges, penalties and interest imposed pursuant to this Title.

22 SECTION 11: Title 6, Chapter 2, Section 190, of the Municipal Code of the City of
23 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

24 **6.02.190:** (A) In the event there is an underpayment for the first licensing period because of
25 a discrepancy between the actual and estimated gross sales, the balance of the fee shall be paid before
26 the renewal of the license for any subsequent period. Until such deficiency is paid, the licensee shall
27 not be issued a new license or renewal of an existing license for any other business.

28 (B) In the event of overpayment of the license fee for [the first] a semiannual license

1 period, other than the first semiannual fee paid pursuant to Subsection (B) of LVMC 6.02.180, the
2 amount overpaid shall be credited toward the license fee owed for the succeeding licensing period.

3 (C) If an audit during the first period of operation indicates that the gross sales of
4 the business will substantially exceed the minimum fee determined under LVMC 6.02.180, the
5 Director may require the immediate payment of an additional amount to reflect the estimated sales for
6 such period.

7 (D) With respect to calculating the fee for the second semiannual period and all
8 periods thereafter, the licensee shall certify the amount of gross sales made during the last preceding
9 semiannual period, which shall be used as the basis for the license fee for the next licensing period.

10 SECTION 12: Title 6, Chapter 2, Section 200, of the Municipal Code of the City of
11 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

12 **6.02.200:** (A) In the event there is an underpayment for any licensing period because of a
13 discrepancy between actual and declared gross sales, the balance of the fee shall be paid before the
14 renewal of a license for any subsequent period. In addition, the licensee [making such underpayment
15 declaration] shall be assessed [a penalty and interest as provided in this Section on the deficiency
16 which shall] regarding the deficiency a penalty and interest, as provided in this Section. Except as
17 otherwise provided in Subsection (E), the deficiency and accompanying penalty and interest must be
18 paid before the renewal of a license for any subsequent period.

19 (B) In the event the underpayment is discovered by the first audit of the business
20 after the first licensing period, the penalty shall be an amount equal to thirty-five percent of the
21 delinquency.

22 (C) In the event the underpayment is discovered by the second or any subsequent
23 audit of the business after the first licensing period, the penalty shall be an amount equal to seventy
24 percent of the delinquency.

25 (D) Interest on the amount of such delinquency shall be one and one-half percent
26 per month from the date when such [tax] fee became due and payable until the date when paid.

27 (E) If an audit of a licensee's records shows that the licensee, as a result of
28 underpayment, owes more than one thousand dollars in license fees, the Director shall have the

1 discretion to approve a payment plan based on a demonstration of hardship by the licensee. In
2 connection with such a payment plan, the Director is authorized to renew a license that otherwise
3 would not be renewed by reason of the nonpayment of license fees.

4 SECTION 13: Title 6, Chapter 2, Section 220, of the Municipal Code of the City of
5 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6 **6.02.220:** It is unlawful for any licensee required to pay a license [tax] fee on the basis of gross
7 sales to make a material and intentional underdeclaration of gross sales for any licensing period to the
8 Director. In determining materiality, the fact that the underdeclaration places the licensee in a lower
9 fee bracket shall be considered one of the major determining factors.

10 SECTION 14: Title 6, Chapter 2, of the Municipal Code of the City of Las Vegas,
11 Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 225,
12 reading as follows:

13 **6.02.225:** (A) With respect to fixed incremental license fee categories described in Chapter
14 6.04, in the event there is an underpayment by a licensee because of a discrepancy between the actual
15 and declared basis for the incremental fee, the balance of the fee shall be paid before the renewal of
16 a license for any subsequent period. In addition, the licensee shall be assessed regarding the deficiency
17 a penalty and interest, as provided in this Section. Except as otherwise provided in Subsection (E),
18 the deficiency and accompanying penalty and interest amounts must be paid before the renewal of a
19 license for any subsequent period.

20 (B) In the event the underpayment is discovered by the first audit of the business
21 after the first licensing period, the penalty shall be an amount equal to thirty-five percent of the
22 delinquency.

23 (C) In the event the underpayment is discovered by the second or any subsequent
24 audit of the business after the first licensing period, the penalty shall be an amount equal to seventy
25 percent of the delinquency.

26 (D) Interest on the amount of such delinquency shall be one and one-half percent
27 per month from the date when such fee became due and payable until the date when paid.

28 (E) If an audit of a licensee's records shows that the licensee, as a result of

1 underpayment, owes more than one thousand dollars in license fees, the Director shall have the
2 discretion to approve a payment plan based on a demonstration of hardship by the licensee. In
3 connection with such a payment plan, the Director is authorized to renew a license that otherwise
4 would not be renewed by reason of the nonpayment of license fees.

5 SECTION 15: Title 6, Chapter 2, Section 240, of the Municipal Code of the City of
6 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

7 **6.02.240:** (A) Prior to the due date of the next licensing period, the Director shall cause a
8 notice to be mailed to each licensee setting forth the amount of the license [tax] fee owed for the next
9 license period; provided, however, that the failure of a licensee to receive actual notice does not affect
10 the obligation to pay the license [tax.] fee.

11 (B) The due date shall be the first day of the first month of a licensing period.

12 SECTION 16: Title 6, Chapter 2, Section 250, of the Municipal Code of the City of
13 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

14 **6.02.250:** (A) All license fees other than [gambling and liquor] gaming and alcoholic beverage
15 license fees shall become delinquent if not received within fifteen days after the due date. If full
16 payment is not made within fifteen days after the due date, fifteen percent of the entire license fee shall
17 be assessed as a penalty, payable in addition to the license fee; provided, however, if the fifteenth day
18 following the due date is a [Saturday, Sunday or holiday,] day that the principal offices of the City are
19 not open to the public, the penalty must not be assessed if the license fee is received before five p.m.
20 of the next day [which is not a Saturday, Sunday or holiday.] on which the principal offices of the City
21 are open to the public. Assessed penalty charges are due on or before the thirtieth day after the license
22 fee due date.

23 (B) All licenses for which fees and assessed penalty charges have not been paid
24 within [thirty] sixty days after the license fee due date [may be] are deemed expired [by the Director
25 and, if so deemed,] and shall not be reinstated until the license fees, assessed penalty charges and a
26 reinstatement fee of fifty dollars have been paid. A license is eligible for reinstatement only within
27 the six-month period following its expiration.

28 (C) The Director may refer any delinquent license fees and assessed penalty charges

1 to a collection agency for collection if they have not been paid within [thirty] sixty days after the
2 license fee due date. The Director may do likewise regarding any service charges and administrative
3 fees that have been assessed pursuant to LVMC [6.02.020(7)] 6.02.020(B)(7) and have not been paid
4 in a timely manner.

5 (D) As a condition of reinstatement of a license deemed expired pursuant to
6 Subsection (B) of this Section, the licensee shall, in addition to payment of any outstanding license
7 fees, penalty charges, service charges, administrative fees, and reinstatement fees, reimburse the City
8 for any expenses it has incurred as a result of referring the licensee's delinquent license fees and
9 assessed penalty charges to a collection agency.

10 SECTION 17: Title 6, Chapter 2, Section 260, of the Municipal Code of the City of
11 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

12 **6.02.260:** Any license [tax] fee imposed by this Code shall be deemed a debt due the City payable
13 by any person who commences, carries on, engages in, or conducts any business, for which a license
14 is required. Such person shall be liable in a civil action to the City in any court of competent
15 jurisdiction for the recovery of the amount of license [tax,] fee, penalties and interest imposed by this
16 Code, and for the costs of suit and reasonable attorney's fees.

17 SECTION 18: Title 6, Chapter 2, Section 310, of the Municipal Code of the City of
18 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

19 **6.02.310:** A person licensed to do business under this Title shall report to the Director on forms
20 provided by the Department any proposed change in business name from that designated in the
21 original business license application prior to such change, and shall pay the change of name processing
22 fee required by LVMC 6.02.085 upon the filing of such report. The report must be filed at least fifteen
23 days before the licensee takes any step to implement the change, including without limitation the filing
24 of a fictitious name certificate regarding the new name, or the use of the name in advertising or in the
25 conduct of business.

26 SECTION 19: Title 6, Chapter 2, Section 330, of the Municipal Code of the City of
27 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

28 **6.02.330:** A licensee may be subject to disciplinary action by the City Council for good cause,

1 which may, without limitation, the following:

2 (A) The licensee or any of its principals is engaged, or has commenced, instituted,
3 advertised, aided, carried on, continued or engaged, in a business, trade or profession without having
4 obtained a valid license, an approval for suitability, a permit or a work card when such [a] person
5 knew that one was required or under such circumstances that [they] such person reasonably should
6 have known one was required, or has solicited, encouraged, caused or procured another to do so;

7 (B) The licensee or any of its principals has been subject, in any jurisdiction, to
8 disciplinary action of any kind with respect to a license, an approval for suitability, a permit or a work
9 card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness
10 of such licensee or principal;

11 (C) The licensee or any of its principals has been convicted of an act [which] that
12 constitutes a crime which involves moral turpitude or involves any local, state or federal law or
13 regulation which relates to the same or a similar business, or has been convicted of having solicited,
14 encouraged, caused or procured another to commit such a violation[;]. For purposes of this Subsection,
15 a crime involving moral turpitude is one that necessarily involves any of the following: an intent to
16 defraud; intentional dishonesty for personal gain; intentional causing of serious injury to another
17 person; th0e sale of narcotics or possession of narcotics with intent to sell; or a sexual offense as
18 described in NRS 179D.097;

19 (D) The licensee or any of its principals, or their employees or those acting on their
20 behalf, violate a condition which is imposed upon the license;

21 (E) The licensee or any of its principals has been convicted of having perpetrated,
22 or has solicited, encouraged, caused or procured another to perpetrate, deceptive practices upon the
23 public;

24 (F) The licensee or any of its principals suffers from a legal disability under the
25 laws of the State;

26 (G) The premises on which the business is conducted do not satisfy local, state or
27 federal law or regulations which pertain to the activity which is actually engaged in;

28 (H) The business activity constitutes, promotes, causes, allows, fosters, aids, or

1 otherwise enables a private nuisance, public nuisance or chronic nuisance, or has been or is being
2 conducted in an unlawful, illegal or impermissible manner, including but not limited to causing,
3 allowing, promoting, fostering, aiding, enabling, exercising deliberate ignorance towards or failing
4 to abate a private nuisance, public nuisance or chronic nuisance; or

5 (I) The licensee, any of its principals, their employees or those acting on their
6 behalf failed to cooperate with the Director's efforts to enforce the provisions of this Code.

7 SECTION 20: Title 6, Chapter 2, Section 370, of the Municipal Code of the City of
8 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

9 **6.02.370:** The doing of any act for which a license is required or the violation of any provision
10 of this Title is declared to be unlawful. In addition, any such act or violation, [and] if harmful to the
11 safety, welfare, health, or peace [and morals] of the residents and taxpayers of the City, [and]
12 constitutes a public nuisance per se, unless such act is done by a person who is authorized to do so by
13 a license issued pursuant to this Title.

14 SECTION 21: If any section, subsection, subdivision, paragraph, sentence, clause or
15 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
16 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
17 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
18 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
19 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
20 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
21 invalid or ineffective.

22 SECTION 22: Whenever in this ordinance any act is prohibited or is made or declared
23 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
24 required or the failure to do any act is made or declared to be unlawful or an offense or a
25 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
26 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
27 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
28 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

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SECTION 23: 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

ATTEST:

BEVERLY K. BRIDGES, MMC
City Clerk

APPROVED AS TO FORM:

Val Steed 9-26-11
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 first introduced and adopted by the following vote:

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

11
12 APPROVED:

13
14 By _____
CAROLYN G. GOODMAN, Mayor

15 ATTEST:
16 _____
17 BEVERLY K. BRIDGES, MMC
City Clerk

BUSINESS IMPACT STATEMENT

BILL NO. 2011-36

(Updates Chapter 6.02 of the Municipal Code relating to business licensing generally)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2011-36, that will update Chapter 6.02 of the Municipal Code relating to business licensing generally.

1. The following constitutes a description of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Notice of the proposed ordinance was published in the Las Vegas Review-Journal. In addition, a copy of the notice was provided to seven area chambers of commerce. No responses were received.

2. The estimated economic effect of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

Limits license reinstatements

Beneficial effects:

More clarity in regulations, additional flexibility provided regarding repayment of delinquent taxes identified by audit, and the addition of a capability to issue multi-jurisdictional licenses

Direct effects:

See adverse and beneficial effects above

Indirect effects:

None identified

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

Not applicable

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is:

No additional cost

5. If the proposed rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Not applicable

6. If the proposed rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Not applicable

7. If the proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains why such duplicative or more stringent provisions are necessary:

Not applicable

Date: September 26, 2011

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 18, 2011

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2011-37 - For Possible Action - Amends the business licensing provisions to adjust the regulatory and fee provisions that apply to certain professional businesses and employees of such businesses. Proposed by: Flinn Fagg, Director of Planning

Fiscal Impact

☒

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill provides clarification regarding the license fee-related obligations of certain professional businesses and their employees and agents, in particular, those pertaining to real estate brokers, real estate salespersons, and property managers. The clarification takes into account the requirements and limitations of State law on the subject, as well as the types of business arrangements used by those types of professional businesses.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2011-37
2. Business Impact Statement

1 **BILL NO. 2011-37**

2 **ORDINANCE NO. _____**

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

7 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.

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

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

13 **6.02.010:** Unless the context otherwise requires, the scope of all words in this Title shall be
14 liberally construed in order to effectuate the purposes of this Title. In particular, the following words
15 shall have the meaning ascribed to them as follows:

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

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

21 "Department" means the Department of [Finance and Business Services.] Planning.

22 "Director" means the Director of the Department of [Finance and Business Services] Planning
23 and those persons authorized [by him] to act in [his] the Director's behalf.

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

27 "Establishment" means any business conducted in or upon any premises, and includes any
28 buildings, improvements, equipment and facilities used or maintained in connection with such

1 business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 "Principal" means:

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

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

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

5 "Professional" means a person who:

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

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

15 "Professional business" means a business which:

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

19 (B) [Employs one or more professionals to provide] Provides such services[.]
20 through the business's principals, professionals, or others qualified under State law or Nevada
21 Supreme Court Rules to provide such services.
22 For purposes of licensing and the payment of business license fees, the term includes the business
23 activities of a person who provides or offers to provide such services in association with, and by
24 means of an independent contractor relationship with, another professional business providing those
25 services.

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

28 SECTION 2: Title 6, Chapter 4, Section 65, of the Municipal Code of the City of Las

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

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

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

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

(1) Acts as a real estate salesperson, property manager, or both under NRS Chapter 645;

(2) Does business in the City or works out of a location within the City; and

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

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

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

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

6.64.010: Each professional business that offers or provides real estate brokerage, real estate sales, or property management services within the City through one or more independent contractors shall be responsible for ensuring that each such independent contractor is properly licensed with the

1 City. Failure to ensure such licensing shall subject the license of the professional business to
2 disciplinary action, in addition to any other remedy available to the City. The Director may also
3 impose a fine on the professional business in the amount of three hundred dollars for each independent
4 contractor that is not properly licensed by the City, which fine can be reimposed annually until
5 compliance is achieved. The imposition of such a fine may be appealed to the City Manager or a
6 designee, which may include an independent hearing examiner that may be appointed for the purpose
7 of such appeals.

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

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

ATTEST:

BEVERLY K. BRIDGES, MMC
City Clerk

APPROVED AS TO FORM:

Val Steed 9-26-11
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 first introduced 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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BUSINESS IMPACT STATEMENT

BILL NO. 2011-37

(Amends the business licensing provisions to adjust the regulatory and fee provisions that apply to certain professional businesses and employees of such businesses)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2011-37, that will amend the business licensing provisions to adjust the regulatory and fee provisions that apply to certain professional businesses and employees of such businesses.

1. The following constitutes a description of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Notice of the proposed ordinance was mailed to approximately 1900 licensees in the real estate and property management categories. Three responses were received objecting to the fee provisions of the bill. A favorable response was received from the Greater Las Vegas Association of Realtors

2. The estimated economic effect of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

The bill will require affirmative action on the part of certain professional businesses and professional employees to help facilitate proper licensing and the payment of license fees

Beneficial effects:

The ordinance is clarifying and will help with understanding and compliance. Additionally, some professional businesses will have a lower fee than exists currently

Direct effects:

See adverse and beneficial effects above

Indirect effects:

None identified

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

Not applicable. The proposed ordinance will not increase fees and will decrease fees in some

cases. The objection of some licensees to the fee provisions of the bill results from the fact that a good number of persons who should be licensed and should have been paying fees in the past have not come in for licensing and have not been paying fees. The clarifying language of the ordinance and the resulting enforcement hopefully will result in greater compliance, but the ordinance itself does not increase or impose fees that have not already been in effect

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is:

No additional cost

5. If the proposed rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Not applicable

6. If the proposed rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Not applicable

7. If the proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains why such duplicative or more stringent provisions are necessary:

Not applicable

Date: September 26, 2011

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 18, 2011

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

CITIZENS PARTICIPATION: PUBLIC COMMENT DURING THIS PORTION OF THE AGENDA MUST BE LIMITED TO MATTERS WITHIN THE JURISDICTION OF THE COMMITTEE. NO SUBJECT MAY BE ACTED UPON BY THE COMMITTEE UNLESS THAT SUBJECT IS ON THE AGENDA AND IS SCHEDULED FOR ACTION. IF YOU WISH TO BE HEARD, COME TO THE PODIUM AND GIVE YOUR NAME FOR THE RECORD. THE AMOUNT OF DISCUSSION ON ANY SINGLE SUBJECT, AS WELL AS THE AMOUNT OF TIME ANY SINGLE SPEAKER IS ALLOWED, MAY BE LIMITED



AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 18, 2011

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

☐ Consent ☒ Discussion

SUBJECT:

ADJOURNMENT

