

BILL NO. 2013-59

ORDINANCE NO. _____

AN ORDINANCE TO AMEND VARIOUS SECTIONS OF LAS VEGAS MUNICIPAL CODE TITLE 6 REGARDING THE TIMING AND PAYMENT OF BUSINESS LICENSE FEES AND TAXES BY ADDING NEW DEFINITIONS, ALLOWING FOR THE PRORATION OF CERTAIN BUSINESS LICENSE FEES, AMENDING THE SCHEDULE FOR THE PAYMENT OF CERTAIN GAMING TAXES, AND ALLOWING FOR THE DIRECTOR TO APPLY LICENSE PAYMENTS TO FINES INCURRED PRIOR TO LICENSE FEES; AMENDING VARIOUS PROVISIONS PERTAINING TO ICE CREAM TRUCKS; AND PROVIDING FOR OTHER RELATED MATTERS.

Proposed by: Flinn Fagg, Director of Planning

Summary: Amends various sections of LVMC Title 6 regarding the timing and payment of business license fees and taxes, and amends various provisions pertaining to ice cream trucks.

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

SECTION 1: Title 4, Chapter 20, Section 90, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

4.20.090: The gaming taxes imposed in Section 4.20.080 shall be paid [quarterly,] semiannually in advance for the succeeding [calendar quarter,] semiannual period, such amount being due on the fifteenth day of [the first month of the calendar quarter for which such license taxes will accrue.] April for the first semiannual period, and again on the fifteenth day of October for the second semiannual period. All taxes not paid by [this date] these dates shall be deemed delinquent. Such taxes shall be paid to the Department. In the event a business begins operations during [a calendar quarter, the licensee of the business shall pay the entire gaming tax for such quarter and proration of the quarterly amount shall not be allowed.] a semiannual period and such operations begin within three months prior to the date of the next gaming tax payment, the licensee of the business shall pay a prorated gaming tax equivalent to a three-month period of time.

SECTION 2: 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

1 construed in order to effectuate the purposes of this Title. In particular, the following words shall have the
2 meaning ascribed to them as follows:

3 “Ancillary license” means a license issued that is incidental to a primary business.

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

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

9 “Department” means the Department of Planning.

10 “Director” means the Director of the Department of Planning and those persons authorized to act in
11 the Director’s behalf.

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

15 “Establishment” means any business conducted in or upon any premises, and includes any
16 buildings, improvements, equipment and facilities used or maintained in connection with such business.

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

19 “Gross sales/gross revenues,” as used in connection with the determination of license fees, means
20 the total amount of the sale price of all goods sold, the total amount charged or received for the
21 performance of any act, service or employment, of whatever nature it may be, whether or not such service,
22 act or employment is performed as part of or in connection with the sale of goods, wares or merchandise
23 for which a charge is made or credit allowed, including all receipts, cash, credits or property of any kind,
24 any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom on
25 account of the cost of property of any kind, any amount for which credit is allowed by the seller to the
26 purchaser without any deduction therefrom on account of the cost of property sold, cost of materials used,

1 labor or service costs, interest paid or payable, losses or any other expense whatsoever.

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

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

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

13 (3) Inventory transfers between dealers of new merchandise, cars or goods and
14 their wholly owned leasing companies, wherein no profit is involved. In order for a dealer of new
15 merchandise, cars or goods to substantiate deductions for inventory transfers, a separate account must be
16 maintained in the general ledger for all merchandise, cars or goods which are transferred to its wholly
17 owned leasing company. These transactions must be traceable to a cash receipt journal or similar journal
18 which summarizes daily transactions. Each daily entry must be supported by paperwork which legally
19 transfers the new merchandise, car or goods to the leasing company;

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

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

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

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

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

1 “License fee” means any money required by law to be paid to obtain, renew or maintain a license.

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

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

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

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

9 “Primary license” means a license issued that represents the primary focus of a business.

10 “Principal” means:

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

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

18 (C) Any other person if, in the Director’s opinion, the person exercises, or is capable of
19 exercising, significant influence over the business, including, but not limited to, a natural person or
20 corporate entity that provides a source of funding for the initial capitalization and/or the ongoing payment
21 of expenses for the business.

22 “Professional” means a person who:

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

26 (B) Practices his or her profession for any type of compensation as an employee of a

1 professional business. The term “employee of a professional business,” for the purposes of this definition,
2 includes an owner, sole proprietor, member, partner or associate of a professional business, but does not
3 include a person who, under a contractual arrangement with a professional business, provides services for
4 or in association with that business as an independent contractor.

5 “Professional business” means a business which:

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

8 (B) Provides such services through the business’s principals, professionals, or others
9 qualified under State law or Nevada Supreme Court Rules to provide such services.

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

13 “Valid unexpired license” means a license that has not been suspended or revoked before its
14 expiration date.

15 SECTION 3: Title 6, Chapter 2, Section 150, of the Municipal Code of the City of Las
16 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

17 **6.02.150:** (A) Separate licenses or permits must be obtained for each assumed or fictitious name
18 on file with the County that is associated with a business, branch establishment or separate place of
19 business, whether the activity is intended to be permanent or temporary.

20 (B) Except as otherwise provided in this Section or with respect to a specific license
21 category established under this Title:

22 (1) A license must be obtained for every class and type of business in this
23 Code specified, even though several classes or types of business may be operated by the same person and at
24 the same place of business; and

25 (2) The license fee applicable to each type or class must be paid, whether the
26 fee is based on gross sales pursuant to LVMC 6.04.005 or is a semiannual or annual fixed license fee

1 established elsewhere in this Code.

2 (C) A person conducting several classes or types of businesses, each of which is
3 required by LVMC 6.04.005 to pay a license fee on the basis of gross sales, at the same location and under
4 the same business name, shall, unless otherwise directed by the Director, apply for and obtain only one
5 license.

6 (D) A person who falls within a license category described in Subsection (E) shall be
7 subject to the gross sales license fee described in LVMC 6.04.005 unless, for one or more future licensing
8 periods, the person elects to pay the fixed annual license fee established in the applicable Code section
9 described in Subsection (E). As deemed appropriate, the Director shall establish deadlines, procedures and
10 other requirements for making the election described in this Subsection.

11 (E) The following license categories are subject to the election provisions of
12 Subsection (D):

13 (1) Corporate administrative office space, as described in LVMC 6.04.040.

14 (2) Fulfillment center, as described in LVMC 6.04.153.

15 (3) Affiliate company software developer or sales-related call center, as
16 described in LVMC 6.04.155.

17 (4) Internet retailer, as described in LVMC 6.04.157.

18 SECTION 4: Title 6, Chapter 2, Section 160, of the Municipal Code of the City of Las
19 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

20 **6.02.160:** (A) Unless specifically provided otherwise, all license fees imposed by this Title shall
21 be for a semiannual period and shall be billed by the Department accordingly.

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

24 (C) Unless specifically provided otherwise, a license fee may be pro-rated on a
25 semiannual, quarterly or monthly basis to allow for consolidation of billing cycles at the discretion of the
26 Director.

1 (D) Refunds of license fees will not be issued due to business closure, expiration,
2 revocation or suspension of a license.

3 (E) At the discretion of the Director, any payments received from a licensee may first
4 be applied to civil fines and penalties due and owing from the licensee to the City.

5 SECTION 5: Title 6, Chapter 2, Section 170, of the Municipal Code of the City of Las
6 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

7 **6.02.170:** (A) License fees based upon gross sales/gross revenues are due in advance and shall
8 fall due on a semiannual basis, with the initial semiannual period commencing on the date the [application
9 for] business license is [filed.] issued.

10 (B) The new owner of an existing business paying license fees based upon gross
11 sales/gross revenues shall report to the Director the gross sales/gross revenues of the previous owner for the
12 six-month period immediately preceding the purchase of the business for the purpose of determining the
13 initial license fee of the new owner.

14 (C) Fixed license fees are due in advance and shall fall due on an annual basis, with the
15 initial period commencing on the date the [application for] business license is [filed,] issued, unless
16 otherwise provided in this Code. An applicant or licensee is not entitled to the issuance of a license until all
17 fees due from that applicant or licensee have been paid.

18 [(D) License fees shall not be prorated based upon the fact that a business does not start
19 when the application for a business license is filed or start at any other time prior to the end of the initial
20 semiannual license period.]

21 SECTION 6: Title 6, Chapter 2, Section 230, of the Municipal Code of the City of Las
22 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

23 **6.02.230:** (A) In order to renew a license the licensee must pay the appropriate license fee, and
24 where the fee is based upon gross sales/gross revenues the licensee shall declare the gross sales/gross
25 revenues in the last preceding semiannual license period or prorated time period. The payment of a license
26 fee does not by itself entitle the licensee to renewal of a license.

1 (B) In connection with the renewal of a license, the Director may require the licensee
2 to pay the license fee for a primary license before paying the license fee for any additional licenses
3 ancillary to the primary license. In such a case, if the primary license fee is not paid in full, payment will
4 not be accepted for any associated ancillary license.

5 SECTION 7: Title 6, Chapter 2, Section 240, of the Municipal Code of the City of Las
6 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 notice
8 to be mailed or sent via electronic mail, based on the preferred method to receive correspondence by the
9 licensee, to each licensee setting forth the amount of the license fee owed for the next license period;
10 provided, however, that the failure of a licensee to receive actual notice does not affect the obligation to
11 pay the license fee. If no preferred method of notice is selected then the notice shall be mailed.

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

13 SECTION 8: Title 6, Chapter 2, Section 250, of the Municipal Code of the City of Las
14 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

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

23 (B) Except as otherwise provided in Subsection (E) with respect to ice cream truck
24 licenses, [All] all licenses for which fees and assessed penalty charges have not been paid within sixty days
25 after the license fee due date are deemed expired and shall not be reinstated until the license fees, assessed
26 penalty charges and a reinstatement fee of fifty dollars have been paid. A license is eligible for

1 reinstatement only within the [six-month] four-month period following its expiration.

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

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

11 (E) The renewal and expiration of ice cream truck licenses shall be in accordance with
12 LVMC 6.47.030(B)(4).

13 SECTION 9: Title 6, Chapter 2, Section 320, of the Municipal Code of the City of Las
14 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

15 **6.02.320:** (A) Licensees have a continuing duty and obligation to notify the Department [within
16 fifteen days] of additions, deletions, changes or modifications in the information furnished the Department
17 and this duty continues as long as a valid license remains in effect. Except as otherwise provided in LVMC
18 6.02.290, 6.02.300 and 6.02.310, a licensee must provide such notification no later than fifteen days after
19 an addition, deletion, change or modification takes place. Failure to report any change that alters the
20 licensing status of the licensee or business is unlawful.

21 (B) A licensee may be required, in the discretion of the Director, to apply for a
22 different license if changes in the licensee's business operations alters the original purpose for which the
23 business was licensed.

24 (C) A licensee may be required, in the discretion of the Director, to apply for a new
25 license if the changes in the licensee's business operations have not previously been reviewed for
26 compliance with City zoning, building and fire code regulations.

1 (D) The burden is on the licensee to show that the changes in business operations have
2 not altered the original business purpose.

3 SECTION 10: Title 6, Chapter 4, Section 65, of the Municipal Code of the City of Las
4 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

5 **6.04.065:** (A) Unless otherwise provided in this Chapter, each professional business located in
6 the City shall pay an annual business license fee, based on the number of professionals it employs, at the
7 rate of two hundred dollars for the first professional and one hundred fifty dollars for each additional
8 professional.

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

11 (C) Each professional business that consists of an individual who meets the following
12 criteria shall pay an annual business license fee of one hundred fifty dollars no later than June 1, for the
13 succeeding annual period:

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

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

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

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

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

SECTION 11: Title 6, Chapter 6, Section 51, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.06.051: (A) At the request of an applicant, the Director may grant a temporary license, effective for a period not to exceed ninety days, pending final action regarding a license application in order for the license approval authority to determine:

(1) The applicant's fitness for a license; and

(2) The appropriateness of the applicant's business location.

As an alternative to issuance of a temporary license administratively, the Director has the discretion to forward such application to the City Council for consideration of a temporary license at the next City Council meeting that is available pursuant to the open meeting law notice requirements of NRS Chapter 241.

(B) A temporary license shall not be granted under this Section unless:

(1) All principals required to be approved for suitability have submitted a complete investigation packet for determination of suitability and paid all applicable fees;

(2) The Director, or the City Council, if considering the temporary license application, makes a preliminary finding that all of the principals of the business are suitable; and

(3) The applicant has submitted a completed and accurate license application and has paid a non-refundable temporary license processing fee, in addition to all other required application fees. The amount of the temporary license processing fee shall be:

(a) Two hundred fifty dollars, for licenses issued under the provisions of Chapters 6.47[, 6.55] and 6.69; and

(b) Five hundred dollars, for all other categories.

SECTION 12: Title 6, Chapter 47, Section 30, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.47.030: (A) On forms approved by the Department, an application for an ice cream truck business license shall be filed with the Director. Each principal of an ice cream truck business must apply

1 for and obtain approval for suitability in accordance with LVMC Chapter 6.06, subject to the payment of
2 applicable investigative fees. Upon completion of a required investigation, Metro will forward the
3 [application] report to the Department for appropriate action.

4 (B) Ice cream truck business licenses issued under this Chapter:

5 (1) Are issued on a per-vehicle basis;

6 (2) Are issued annually, whether on an initial or renewal basis, for the period
7 for the period of April 1 through March 31 of the following year; [and]

8 (3) Are non-transferable[.]; and

9 (4) Are deemed expired and are marked "out of business" if not renewed by
10 May 1st, and thereafter are not eligible for reinstatement.

11 (C) If a licensee requests an initial license between January 1 and March 30, the
12 license fee shall be prorated to an amount equal to 50% of the annual license fee.

13 SECTION 13: Title 6, Chapter 47, Section 40, of the Municipal Code of the City of Las
14 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

15 **6.47.040:** (A) Independent of any certification requirement of the Health District, an ice cream
16 truck must first be inspected [by Department personnel] on behalf of the Department and found to be in
17 compliance with LVMC 6.47.100 before a business license may be issued or renewed for the operation of
18 that truck. At the discretion of the Director, the inspection may be conducted by Department personnel or
19 by another local jurisdiction. The applicant or licensee shall pay an inspection fee of fifty dollars for the
20 first inspection. If an ice cream truck does not pass the first inspection, the applicant or licensee shall pay a
21 reinspection fee of fifty dollars for each reinspection until the truck complies with LVMC 6.47.100.

22 (B) In connection with the initial licensing of an ice cream truck business, the applicant
23 must demonstrate compliance with LVMC 6.47.050 and 6.47.110 before the issuance of the initial license.
24 Following the issuance of an initial license, the licensee, on an ongoing basis and in connection with annual
25 renewal, may certify compliance with those sections by means of an affidavit. However, such certification
26 by affidavit does not preclude the Department, at any time, from requiring actual proof of compliance with

1 those sections.

2 (C) Ice cream trucks do not have to be reinspected for the April renewal in a particular
3 year if they have passed inspection since January 1st of that year.

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

11 SECTION 15: Whenever in this ordinance any act is prohibited or is made or declared to
12 be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required
13 or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of
14 such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon
15 conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment for a term of
16 not more than six months, or by any combination of such fine and imprisonment. Any day of any violation
17 of this ordinance shall constitute a separate offense.

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1 SECTION 16: All ordinances or parts of ordinances or sections, subsections, phrases,
2 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983
3 Edition, in conflict herewith are hereby repealed.

4 PASSED, ADOPTED and APPROVED this ____ day of _____, 2013.

5 APPROVED:

6
7 By _____
CAROLYN G. GOODMAN, Mayor

8 ATTEST:

9 _____
10 BEVERLY K. BRIDGES, MMC
City Clerk

11
12 APPROVED AS TO FORM:

13 Val Steed 10-28-13
14 Val Steed, Date
Deputy City Attorney

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the ____
2 day of _____, 2013, and referred to a committee for recommendation, the committee being
3 composed of the following members _____;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2013, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council as first
7 introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11
12 APPROVED:

13 By _____
14 CAROLYN G. GOODMAN, Mayor

15 ATTEST:

16 _____
17 BEVERLY K. BRIDGES, MMC
18 City Clerk
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