

1 **BILL NO. 2012-59**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO UPDATE THE CITY'S PRIVILEGED LICENSING REGULATIONS
4 REGARDING LICENSING AND SUITABILITY REVIEW AND THE INVESTIGATION
PROCESS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

5 Sponsored by: Councilman Ricki Y. Barlow

Summary: Updates the privileged licensing
regulations regarding licensing and suitability
review and the investigation process.

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

9 SECTION 1: Title 6, Chapter 2, Section 010, of the Municipal Code of the City of
10 Las Vegas, Nevada 1983 Edition, is hereby amended to read as follows:

11 **6.02.010:** Unless the context otherwise requires, the scope of all words in this Title shall be
12 liberally construed in order to effectuate the purposes of this Title. In particular, the following words
13 shall have the meaning ascribed to them as follows:

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

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

19 "Department" means the Department of Planning.

20 "Director" means the Director of the Department of Planning and those persons authorized to
21 act in the Director's behalf.

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

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

28 "Governmental entity" means an entity of Federal, State or local government whose activities

1 are exempt from Federal income taxation.

2 "Gross sales/gross revenues," as used in connection with the determination of license fees,
3 means the total amount of the sale price of all goods sold, the total amount charged or received for the
4 performance of any act, service or employment, of whatever nature it may be, whether or not such
5 service, act or employment is performed as part of or in connection with the sale of goods, wares or
6 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" means any money required by law to be paid to obtain, renew or maintain a
12 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, including, but not limited to, a natural
3 person or corporate entity that provides a source of funding for the initial capitalization and/or the
4 ongoing payment of expenses for 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 of
10 a professional business. The term "employee of a professional business," for the purposes of this
11 definition, includes an owner, sole proprietor, member, partner or associate of a professional business,
12 but does not include a person who, under a contractual arrangement with a professional business,
13 provides services for or in association with that business as an independent contractor.

14 "Professional business" means a business which:

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

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

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

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

26 SECTION 2: Title 6, Chapter 6, Section 30, of the Municipal Code of the City of Las
27 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

28 **6.06.030:** (A) The application for a license must provide:

1 (1) The applicant's prior business activities[, financial history] and business
2 associations covering at least the ten-year period immediately preceding the [year] date of filing the
3 application;

4 (2) Any persons that constitute the current or proposed ownership structure
5 of the business, any and all sources of funding used for the initial capitalization of the business and
6 any and all sources of funding used for its ongoing operations. As used in this subsection, the term
7 "sources of funding" includes, but is not limited to, loans, lines of credit, gifts, proceeds from sale of
8 tangible or intangible property (including equity in the business), personal funds or any other source,
9 whether provided by the applicant, another natural person or any corporate entity.

10 (3) The name, address and job description of each person who is to be
11 actively engaged in the administration or supervision of the business to be licensed.

12 (4) The name and address of each principal.

13 (B) If requested by the Department in accordance with a written policy established
14 by the Director, the applicant's present and past financial position and history must be provided on
15 the application covering at least the ten-year period immediately preceding the date of filing the
16 application.

17 [(B)] (C) The applicant shall agree in writing that, if a license is granted, the applicant
18 will accept the license subject to all of the terms and provisions of this Title and that the license is a
19 privilege conferred upon the person who is granted the license.

20 [(C)] (D) The applicant shall authorize the City in writing to obtain information from
21 criminal justice agencies, financial institutions, Federal, State and local governments and agencies,
22 and other persons and entities and shall consent in writing to the release of such information to the
23 City for use in connection with the application for the license and other City business regulations. The
24 applicant shall also sign a release of claims and hold-harmless agreement to the City for its use of the
25 information provided by the applicant or discovered during any investigation thereof.

26 SECTION 3: Title 6, Chapter 6, Section 70, of the Municipal Code of the City of Las
27 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

28 **6.06.070:** (A) The application for approval for suitability shall be filed with the Department

1 on forms acceptable to the Department. The applicant shall furnish all the information required by
2 the Department, covering at least the ten-year period immediately preceding the date of filing the
3 application, including but not limited to, the following:

- 4 (1) The applicant's personal and family history;
- 5 (2) If requested by the Department in accordance with a written policy
6 established by the Director, the applicant's present and past financial position and history;
- 7 (3) The applicant's criminal history and civil and administrative litigation
8 history;
- 9 (4) The applicant's education, training, employment, business and
10 professional history; and
- 11 (5) The applicant's past and proposed affiliation with the licensee.

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

15 SECTION 4: Title 6, Chapter 6, Section 100, of the Municipal Code of the City of
16 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

17 **6.06.100:** Each applicant shall pay the following non-refundable fee deposits at the time of filing
18 an application for a license or approval for suitability with the Department:

19 (A) Two hundred dollars [made] payable to [Metro] the Department for the
20 investigation of a license application, which amount shall be forwarded to Metro, if the license
21 application is forwarded to Metro for investigation.

22 (B) One hundred fifty dollars [made] payable to [Metro] the Department for the
23 investigation of an approval for suitability application, which amount shall be forwarded to Metro, if
24 the suitability application is forwarded to Metro for investigation.

25 (C) One hundred dollars [made] payable to the Department for processing an
26 application for a business license or approval for suitability.

27 SECTION 5: Title 6, Chapter 6, Section 110, of the Municipal Code of the City of
28 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

1 **6.06.110:** (A) Except as otherwise provided in Subsection (B) or Subsection (C), after receipt
2 of a completed application for a license or approval for suitability, the Director shall refer the
3 application to Metro for investigation.

4 (B) The Director shall have the discretion to not [to] refer [an] a suitability
5 application to Metro if the applicant has been investigated by Metro in connection with licensing or
6 suitability approval within [one year] twenty-four months before the application was submitted, or if
7 the Director otherwise determines that such referral is not necessary or appropriate. The discretion
8 afforded the Director in this Subsection shall be exercised in accordance with a written policy
9 established by the Director[.], and such policy must include the completion of an investigation of the
10 suitability application by the Department prior to the Director exercising discretion to not refer such
11 suitability application to Metro.

12 (C) The Director shall have the discretion to not refer a license application to Metro
13 if the applicant has been investigated by Metro in connection with licensing approval within twenty-
14 four months before the application was submitted, or if the Director otherwise determines that such
15 referral is not necessary or appropriate. The discretion afforded the Director in this Subsection shall
16 be exercised in accordance with a written policy established by the Director, and such policy must
17 include the completion of an investigation of the license application by the Department prior to the
18 Director exercising discretion to not refer such suitability application to Metro.

19 (D) Upon completion of any investigation or a determination made pursuant to
20 Subsection (B) and (C), the Director shall submit the application to the [City Council for its]
21 approving authority for action.

22 [(D)] (E) In the event the approving authority [City Council] has issued a temporary
23 license pursuant to this Chapter pending an investigation by Metro, the Director may, upon receipt of
24 Metro's completed investigation, submit the application for a license to the approving authority [City
25 Council] for its action at any time prior to the expiration of the temporary license.

26 SECTION 6: Title 6, Chapter 6 of the Municipal Code of the City of Las Vegas,
27 Nevada, 1983 Edition, is hereby amended by adding thereto a new Section 205, reading as follows:

28 **6.06.205:** A principal has a continuing duty and obligation to notify the Department of any

1 convictions or disciplinary actions taken against such principal within the jurisdiction of the City, or
2 in any other jurisdiction where the business holds a business license. Such notification shall occur
3 within fifteen days from the date of conviction or the date of disciplinary action. Failure to so notify
4 may result in disciplinary action against the principal pursuant to LVMC 6.06.260.

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

13 SECTION 8: All ordinances or parts of ordinances or sections, subsections, phrases,
14 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
15 1983 Edition, in conflict herewith are hereby repealed.

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

17 APPROVED:

18
19 By _____
CAROLYN G. GOODMAN, Mayor

20 ATTEST:

21 _____
22 BEVERLY K. BRIDGES, MMC
City Clerk

23 APPROVED AS TO FORM:

24 _____
Date

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
3 committee being composed of the following members _____
4 _____; thereafter the said committee reported favorably on said ordinance on the
5 _____ day of _____, 2013, which was a _____ meeting of said
6 Council; that at said _____ meeting, the proposed ordinance was read by title
7 to the City Council 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  12-5-12
17 BEVERLY K. BRIDGES, MMC
18 City Clerk
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