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SECOND AMENDMENT

BILL NO. 2000-12

ORDINANCE NO. 5204

AN ORDINANCE TO AMEND THE LAS VEGAS MUNICIPAL CODE TO ESTABLISH NEW PROCEDURES FOR HEARING CERTAIN APPEALS, VARIANCE APPLICATIONS AND SIMILAR MATTERS AS A REPLACEMENT FOR THE BOARD OF ZONING ADJUSTMENT, TO REPEAL CODE AND ORDINANCE PROVISIONS PERTAINING TO THE BOARD, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by:
Willard Tim Chow, Director
Planning and Development

Summary: Establishes new procedures for hearing certain appeals, variance applications and similar matters under the Municipal Code as a replacement for the Board of Zoning Adjustment.

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

SECTION 1: Section 5 of Ordinance No. 5193 of the City of Las Vegas, and Title 2, Chapter 45, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby repealed in their entirety.

SECTION 2: Title 2, Chapter 22, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new article or division, consisting of Sections 100, 110 and 120, reading as follows:

2.22.100: The City Council may appoint one or more hearings officers to conduct hearings and render decisions concerning appeals and other applications that arise under Title 19A and other provisions of the Municipal Code that relate to the development and use of land. The Director of Planning and Development shall select the hearings officer or officers, subject to ratification by the City Council. The appointment of hearings officers shall be consistent with NRS 278.262 to 278.265, inclusive. The hearings officer or officers so appointed shall be the "hearing examiners" referred to in NRS 278.262 to 278.265, inclusive.

2.22.110: Any hearings officer appointed pursuant to Section 2.22.100 shall serve at the pleasure of the City Council, and shall conduct hearings and decide appeals in accordance with the provisions of the Municipal Code that pertain to those matters. Except as otherwise provided in the Municipal Code for a particular type of case, the decision of a hearings officer shall be final action, subject to

1 appeal to the City Council by a person who is aggrieved.

2 **2.22.120:** The provisions of Sections 2.22.020(B), 2.22.030, and 2.22.040 shall apply to any
3 hearings officer appointed pursuant to Section 2.22.100 to the same degree as if the hearings officer
4 were a "hearing examiner" under those provisions. Hearings officers shall receive such compensation
5 as is considered necessary and appropriate by the City Council.

6 SECTION 3: Title 2, Chapter 49, Section 10, of the Municipal Code of the City of Las Vegas,
7 Nevada, 1983 Edition, is hereby amended to read as follows:

8 **2.49.010:** A person is not eligible to serve on the Las Vegas Housing Authority Board, Las
9 Vegas-Clark County Library District Board of Trustees, Planning Commission, Traffic and Parking
10 Commission, Board of Civil Service Trustees, [Board of Zoning Adjustment,] Child Care Licensing
11 Board, Citizens Advisory Review Board and Citizens Priority Advisory Committee that are
12 established by this Code or by City Council action unless he or she is a resident of the City. All
13 nonresidents of the City who are members of these boards or commissions on the date the ordinance
14 codified in this section becomes effective shall be allowed to complete their terms of office.

15 SECTION 4: Title 2, Chapter 51, Section 20, of the Municipal Code of the City of Las Vegas,
16 Nevada, 1983 Edition, is hereby amended to read as follows:

17 **2.51.020:** (A) "Business entity" means any corporation, general or limited partnership, sole
18 proprietorship (including a private consultant operation) joint venture, unincorporated association or
19 firm, institution, trust, foundation, or other organization, whether or not organized for profit. Business
20 entity does not include local, state or federal agencies or political subdivisions thereof.

21 (B) "Confidential information" means all information, whether transmitted verbally or in
22 writing, which is of such a nature that it is not, at the time, a matter of public record or public
23 knowledge.

24 (C) "Gift" means anything of economic value, regardless of the form, without adequate and
25 lawful consideration, but not including:

26 (1) The solicitation, acceptance, receipt or regulation of political campaign
27 contributions regulated in accordance with provisions of federal, state, or local laws governing
28 campaign finances;

- 1 (2) A nonpecuniary gift with an economic value of less than one hundred dollars;
2 (3) A nonpecuniary award presented in recognition of public service;
3 (4) Any reasonable hosting, including travel expenses, entertainment, meals, or
4 refreshments furnished in connection with appearances, ceremonies, and other occasions reasonably
5 relating to official City business, unless otherwise prohibited by law;

6 (5) Gifts from family members related within the third degree of consanguinity or
7 affinity; or

8 (6) Invitations to political fund raisers.

9 (D) "Interest," except as otherwise specifically provided, means direct or indirect pecuniary
10 or material benefit accruing to a public officer or employee as the result of a contract, transaction,
11 zoning decision, or other matter which is or may be the subject of an official act or action by or with
12 the City except for such contracts, transactions, zoning decisions, or other matters which by their
13 terms and by the substance of their provisions confer the opportunity and right to realize the accrual
14 of similar benefits to all other persons and/or property similarly situated. For purposes of this Chapter,
15 a public officer or employee shall be deemed to have an interest in the affairs of:

16 (1) The officer's or employee's spouse or children;

17 (2) Any person or business entity with whom a contractual relationship exists with
18 a public officer or employee to the extent of and within the parameter of such contractual relationship
19 only;

20 (3) Any business entity in which the public officer or employee is an officer,
21 director, member, or employee; and

22 (4) Any business entity in which the public officer or employee controls or owns
23 directly or indirectly, in excess of five percent of the total stock or an interest totaling fifty thousand
24 dollars or more in value.

25 (E) "Lobbyist" means any person who communicates directly with a member of the City
26 Council on behalf of someone other than him or herself to influence action by the City Council and
27 who is compensated for the communication. "Lobbyist" does not include members of a bona fide news
28 medium who meet the definition of "lobbyist" only in the course of their professional duties and who

1 contact members of the Council for the sole purpose of carrying out their news gathering function.

2 (F) "Official act or action" means any legislative, administrative, appointive or
3 discretionary act of any officer or employee of the City or any agency, board, committee or
4 commission thereof.

5 (G) "Public board member," unless otherwise stated in this Chapter, means any person,
6 holding a position by appointment of the City Council, whether paid or unpaid, to the following City
7 boards, committees and commissions:

8 (1) The Board of Civil Service Trustees;

9 (2) [The Board of Zoning Adjustment;

10 [(3)] (2) The Child Care Licensing Board;

11 [(4)] (3) The Ethics Review Board;

12 [(5)] (4) The Historic Preservation Commission;

13 [(6)] (5) The Parks and Recreation Advisory Commission;

14 [(7)] (6) The Planning Commission;

15 [(8)] (7) The Traffic and Parking Commission.

16 Though the Las Vegas Housing Authority and the Las Vegas-Clark County Library District Board of
17 Trustees are not agencies of the City, members, whether paid or unpaid, appointed to the governing
18 body of these local government agencies by the City Council are subject to the provisions of this
19 Chapter.

20 (H) "Public employee," unless otherwise stated in this Chapter, means any person, holding
21 a position by appointment or employment in the service of the City, whether paid or unpaid. The term
22 "appointed public employee" means a person appointed to the position of City Engineer, City Traffic
23 Engineer, City Treasurer, and Deputy Director or above which is established by the Constitution of
24 the State of Nevada, a statute of this State, the Las Vegas City Charter or a City ordinance.

25 (I) "Public officer" means the Mayor and the City Council members.

26 SECTION 5: Title 2, Chapter 52, Section 10, of the Municipal Code of the City of Las Vegas,
27 Nevada, 1983 Edition, is hereby amended to read as follows:

28 **2.52.010:** As used in this Chapter, "commission or board" means any administrative commission

1 or board established by the [Board of Commissioners] City Council and described in Title 2 of this
2 Code, [the Board of Adjustment described in Title 19,] and the Child [Welfare and Solicitations
3 Review Boards] Care Licensing Board described in Title 6.

4 SECTION 6: Title 10, Chapter 80, Section 40, of the Municipal Code of the City of Las
5 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6 **10.80.040:** (A) The [Board of Zoning Adjustment] City Council may grant a variance from the
7 prohibitions contained in Section 10.80.020 if it finds that the granting of such variance will not be
8 materially detrimental to the public safety and welfare or injurious to other property or improvements
9 in the vicinity. The [Board] Council may impose such conditions upon the granting of a variance as
10 it deems appropriate.

11 (B) [The] To the extent possible, the variance procedures set forth in [Sections 19.88.030
12 to 19.88.180, inclusive,] Title 19A shall apply to variance applications [authorized by] heard by the
13 City Council pursuant to this Section, with the following exceptions:

14 (1) The fee chargeable in connection with a variance application shall be fifty
15 dollars. [, except that the fee shall be waived with respect to any application concerning a location
16 which, on September 1, 1985, was being used, on a regular basis, for the parking of tour buses.]

17 (2) The area for notification of property owners shall be within one hundred fifty
18 feet of the exterior boundary lines of the lot or parcel described in the application.

19 SECTION 7: Title 13, Chapter 16, Section 90, of the Municipal Code of the City of Las
20 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

21 **13.16.090:** (A) In [Single-family Residence, Residential Planned Development, and Mobile
22 Home Residence Districts,] the R-1, R-PD, and R-MH[,] Zoning Districts, the maximum depressed
23 curb cut length shall be eighteen feet and shall be located in accordance with City Specifications or
24 Drawings.

25 (B) In [Non-Urban, Residence Estates, Ranch Acres, Single-family Residence-restricted,
26 Two-family, Limited Multiple, Apartment Residence, Downtown Apartment, High Rise Apartment,
27 and Residential Mobile Home Park Districts, N-U, R-E, R-A, R-D, R-2, R-3, R-4, R-5, R-6 and
28 R-MHP,] all other residential zoning districts, the maximum depressed curb cut length shall not

1 exceed twenty-five feet and shall be located in accordance with City Specifications or Drawings.

2 (C) In [Professional Office and Parking, Neighborhood Commercial, Designed
3 Commercial, Limited Commercial, General Commercial, Commercial Industrial, Industrial, and Civic
4 Districts, P-R, C-C, C-D, C-1, C-2, C-M, M, and C-V, and for uses permitted by a use permit issued
5 by the Board of Zoning Adjustment which are similar in nature to the uses permitted in the
6 aforementioned districts,] nonresidential zoning districts, the maximum depressed curb cut length
7 shall be thirty-two feet and shall be located in accordance with City Specifications and Drawings.

8 SECTION 8: Title 20, Chapter 8, Section 280, of the Municipal Code of the City of Las
9 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

10 **20.08.280:** (A) The [Board of Zoning Adjustment] City Council shall hear and decide appeals
11 when it is alleged there is an error in any decision, determination or interpretation of the Director of
12 Public Works regarding the requirements of this Chapter.

13 (B) Such appeals shall be made in accordance with the provisions of NRS 278.310.

14 (C) Prior to the hearing on the appeal, the Director of Public Works shall file a report with
15 the [Board of Zoning Adjustment] City Council supporting his decision. Such report shall as near as
16 practicable contain the information required in Subsection (C) of Section 20.08.290.

17 SECTION 9: Title 20, Chapter 8, Section 290, of the Municipal Code of the City of Las
18 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

19 **20.08.290:** (A) [The Board of Zoning Adjustment shall hear and decide requests] Except as
20 otherwise provided in this Chapter, requests for variances from the requirements of this Chapter shall
21 be heard and decided in the manner and in accordance with the variance procedures set forth in
22 [Chapter 19.88.] Title 19A.

23 (B) [Any person aggrieved by the decision of the Board of Zoning Adjustment on a
24 variance application may appeal such decision to the City Council in the manner and in accordance
25 with the procedures set forth in Chapter 19.88.

26 (C) Prior to [the public] a hearing on the variance [before the Board of Zoning
27 Adjustment,] application, the Director of Public Works shall file a report [with the Board of Zoning
28 Adjustment on] concerning the application, [for a variance,] which shall contain the following

1 information at a minimum:

- 2 (1) Location of the parcel;
- 3 (2) The tributary drainage area;
- 4 (3) The ten-year and one-hundred-year flood discharge, with an allowance for
5 sediment and future development;
- 6 (4) The depth and velocity of flow across or adjacent to the parcel;
- 7 (5) The requirement from which a variance is requested;
- 8 (6) Engineering considerations underlying the requirement;
- 9 (7) Possible alternatives to the requirements;
- 10 (8) Mitigating circumstances, if any; and
- 11 (9) [Recommended] The recommended action.

12 (D) [In passing upon applications for variances, the Board of Zoning Adjustment shall
13 consider the] Action on a variance application shall be based upon the report provided for in
14 Subsection (C) of this Section, all technical evaluations, all relevant factors, and all standards specified
15 in other sections of this Chapter.

16 (E) Generally, variances may be issued for new construction and substantial improvements
17 to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing
18 structures constructed below the base flood level, providing items in Subsection (C) of this Section
19 have been fully considered. As the lot size increases beyond the one-half acre, the technical
20 justification required for issuing the variance increases.

21 (F) [The Board of Zoning Adjustment may attach such conditions to the granting of
22 variances as it deems] The granting of a variance may be conditioned upon such measures as are
23 deemed necessary to further the purposes of this Chapter.

24 SECTION 10: Title 20, Chapter 8, Section 300, of the Municipal Code of the City of Las
25 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

26 **20.08.300:** (A) The Director of Public Works shall compile and maintain a complete record
27 of all appeals and variances filed [with the Board of Zoning Adjustment,] under this Chapter, shall
28 report any variances to the Federal Insurance Administration upon request, and shall include

1 statements documenting the findings required for variances under Subsection (D) of Section
2 20.08.310.

3 SECTION 11: Title 20, Chapter 8, Section 320, of the Municipal Code of the City of Las
4 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

5 **20.08.320:** (A) The Director of Public Works shall appoint a Technical Committee consisting
6 of three members chosen from the general public who have technical knowledge and experience in
7 civil engineering and/or flood control engineering and who would be qualified to assist in the appeal
8 or variance review process set forth in Sections 20.08.280 through 20.08.310. The applicant at his
9 option may elect at the time of the filing of an appeal or an application for a variance to have the
10 Technical Committee review the application prior to the hearing and make a recommendation thereon,
11 [to the Board of Zoning Adjustment.] The Director of Public Works may charge the applicant an
12 administrative fee to defray the costs of the review and preparation of a report.

13 (B) The initial members of the Technical Committee shall be appointed for one-, two- and
14 three-year terms and all subsequent appointments shall be for two years. All vacancies occurring
15 during a term of office shall be filled to the end of the term. Members may be removed by the Director
16 of Public Works or the City Manager for cause.

17 SECTION 12: Section 19A.00.060(F) of the Zoning Code of the City of Las Vegas is hereby
18 amended to read as follows:

19 **F. Director Defined**

20 For the purposes of this Title, the term "Director" means the Director of the Department of
21 Planning and Development or the Director's designee. The Director is hereby designated as the
22 Secretary of the Planning Commission, [and the Secretary of the Board of Zoning Adjustment.]

23 SECTION 13: Section 19A.00.070(B) of the Zoning Code of the City of Las Vegas is hereby
24 amended to read as follows:

25 **B. Violation-Misdemeanor**

26 It is unlawful for any person, whether acting as a principal, agent, or employee, to violate any
27 provision of this Title, or of any condition imposed upon a Rezoning, Special Use Permit, Site
28 Development Review, Variance, [Minor Exception,] Administrative Deviation, Home Occupation

1 Permit or Temporary Commercial Permit granted hereunder. It is unlawful for the owner, general
2 agent, lessee or tenant of a building or premises or for any other person to cause, permit or assist in
3 the occurrence or commitment of a violation of any provision of this Title or of any condition imposed
4 upon a Rezoning, Special Use Permit, Site Development Review, Variance, [Minor Exception,]
5 Administrative Deviation, Home Occupation Permit or Temporary Commercial Permit granted
6 hereunder.

7 SECTION 14: Section 19A.00.070(F) of the Zoning Code of the City of Las Vegas is hereby
8 amended to read as follows:

9 **F. Appeals of Interpretation**

10 [1. Procedure.] Any person aggrieved in connection with the inability to obtain a building
11 permit or by the decision of any administrative officer or agency based upon or made in the course
12 of the administration or enforcement of any provision of this Title may appeal the decision to the
13 [Board of Zoning Adjustment.] City Council. An appeal must be in written form and must be filed
14 [with the Secretary of the Board of Zoning Adjustment at the offices of] in the office of the City Clerk
15 with a copy to be filed in the office of the Department of Planning and Development. The appeal must
16 be filed within ten days after the administrative decision is made [The appeal] and shall specifically
17 describe the decision at issue and the basis for the appeal. The appeal shall be considered on the next
18 available agenda of the City Council.

19 [2. Authority. The authority of the Board of Zoning Adjustment to review administrative
20 decisions is limited to the interpretation and application of the provisions of this title. No action by
21 the Board of Zoning Adjustment shall be deemed to alter or repeal any provision of this Title or of any
22 other law, ordinance or regulation.

23 3. Decision. The Board of Zoning Adjustment shall promptly decide the issue and
24 provide written notice of its decision to the appellant.]

25 SECTION 15: Section 19A.04.080(B) of the Zoning Code of the City of Las Vegas is hereby
26 amended to read as follows:

27 **B. Appeals**

28 An applicant who is aggrieved by the decision of the Director with respect to the allowability

1 of an unlisted use may [file an appeal of] appeal the decision to the [Board of Zoning Adjustment.]
2 City Council. The appeal shall be filed in the office of the City Clerk, with a copy to be filed in the
3 office of Department of Planning and Development. Unless otherwise stated in the [Board] Council's
4 action, the determination of the [Board] Council with respect to the appeal shall constitute a
5 permanent and consistent interpretative decision which the Director shall apply in all future instances.

6 SECTION 16: Section 19A.04.080(C) of the Zoning Code of the City of Las Vegas is hereby
7 amended to read as follows:

8 **C. Conditions**

9 When considering requests to permit a new or unlisted land use as being similar to a listed use,
10 the Planning Director or [Board of Zoning Adjustment] City Council shall consider the potential
11 effects of the use on adjacent properties in terms of requirements for services, visual impact, traffic
12 generation, the extent to which the use is consistent with other uses allowed in the district, and other
13 issues they deem appropriate. Based upon such consideration, the Director or [Board of Zoning
14 Adjustment,] Council, in approving a request under this Subchapter, may impose appropriate and
15 reasonable conditions designed to ensure compatibility and consistency of uses.

16 SECTION 17: Section 19A.04.080(D) of the Zoning Code of the City of Las Vegas is hereby
17 amended to read as follows:

18 **D. Authorization of New Uses**

19 New uses which have been permitted by the Director or [Board of Zoning Adjustment,] City
20 Council pursuant to the subchapter[,], shall be added by ordinance amendment on a periodic basis.

21 SECTION 18: Section 19A.06.020(C) of the Zoning Code of the City of Las Vegas is hereby
22 amended to read as follows:

23 **C. Similar Uses**

24 1. **Additional Uses.** The uses permitted in this subchapter are classified on the basis of
25 common operational characteristics and land use compatibility. Uses not specifically listed in this
26 subchapter are prohibited. However, additional uses may be permitted by the Director if the Director
27 finds the use to be similar to the other uses listed in the same zoning district.

28 2. **Appeal of Decision.** An applicant who is aggrieved by the decision of the Director

1 may [file an appeal of] appeal that decision to the [Board of Zoning Adjustment.] City Council. The
2 appeal shall be filed in the office of the City Clerk, with a copy to be filed in the office of the
3 Department of Planning and Development. The appeal must be filed within ten days after the
4 Director's decision is made. Unless otherwise stated, the [Board's] Council's determination shall
5 constitute a permanent and consistent interpretative decision, which the Director shall apply in all
6 future instances.

7 SECTION 19: Subsection 19A.08.040(B)(2) of the Zoning Code of the City of Las Vegas is
8 hereby amended to read as follows:

9 **2. Fences and Walls**

10 **a. Height.** Except as otherwise specifically permitted in this Title, the maximum
11 permitted height of walls, fences and hedges in residential districts shall be governed by the following:

12 1) Rear Yard Area—Six feet solid or open.
13 2) Side Yard Area—Six feet solid or open.
14 3) Required Front Yard Area—Four feet total, with the top two vertical feet 50
15 percent open to permit visibility. Hedges planted along the front yard property line shall not exceed
16 three vertical feet. Retaining walls along the front property line may not retain more than two feet.
17 Where the grade of the front yard slopes more than 2:1 ratio, multiple retaining walls may be
18 constructed, provided there is a minimum distance of five feet between retaining walls for
19 landscaping.

20 4) The maximum height of permitted fences/walls along the front property line
21 shall be measured from the elevation of the adjoining sidewalk. Where such walls are set back, they
22 shall be measured from the finished grade.

23 5) The maximum height of permitted fences/walls in the side and rear yard areas
24 shall be measured on the side with the least vertical exposure above finished grade.

25 6) Screening or fencing for tennis/sports courts is permitted in the rear or side yard
26 area. Such structures may exceed the height of six feet, but shall not be higher than 12 feet. The
27 portion above the height of six feet shall be open so as not to restrict light or ventilation and provided
28 such fencing shall be setback a minimum of 5 feet from the side and rear property lines.

1 7) The Director may approve walls and/or fences in excess of the limitations set
2 forth herein as [a Minor Exception] an Administrative Deviation pursuant to Subchapter 19A.18.080.

3 **b. Barbed Wire/Razor Wire Fences.** The use of barbed or razor wire or similar security
4 fencing materials shall comply with the standards set forth in the most recent edition of the Uniform
5 Building Code, as adopted by the City.

6 **c. Corral and Stable Fencing.** Fencing for corrals and stables is permitted in accordance
7 with Section 19A.04.040 (C).

8 SECTION 20: Section 19A.08.060(H) of the Zoning Code of the City of Las Vegas is hereby
9 amended to read as follows:

10 **H. Exclusions**

11 **1. Higher Ambient Light Levels.** Where existing ambient light levels from multiple
12 sources already exceed the standards, the subject source may not increase the existing light levels,
13 unless approved [by the Board of Zoning Adjustment or by the City Council as part of an approved]
14 in connection with the approval of a Site Development Plan.

15 **2. Public Facilities and Activities Excluded.** Public facilities and activities are excluded
16 from the standards in this subchapter. Such activities include:

17 a. Any activity by the City, its agents, contractors or franchisees in the conduct
18 of traditional governmental activities such as trash removal, police and fire protection; and

19 b. Any public event such as outdoor recreational events, concerts and other events
20 sponsored by a public or non-profit organization and located on public or non-profit property.

21 SECTION 21: Subsection 19A.14.100(C)(7) of the Zoning Code of the City of Las Vegas is
22 hereby amended to read as follows:

23 **7. Off-premise signs** which are within 660 feet of the right-of-way and which can be read
24 from Interstate 15, US 95 from the north city limits to the Oran K. Gragson Highway, the Oran K.
25 Gragson Highway or Interstate 515 shall not be higher than 40 feet except as provided in Paragraphs
26 (a) and (b) below. The height shall be measured from the grade at the point of construction to the top
27 of the sign. The display surface shall not be higher than 30 feet nor wider than 60 feet.

28 a. An off-premise sign within 150 feet of the right-of-way line of an elevated

1 freeway or highway to which it is oriented may be erected 30 feet above the elevation of the elevated
2 roadway surface nearest the sign.

3 b. An off-premise sign within 150 feet of the right-of-way line of any freeway or
4 highway to which it is oriented which, at a height of 40 feet, will have a significant portion of its
5 display surface obscured from view from the travel lanes of the freeway or highway may be increased
6 to a maximum of 55 feet when authorized by the City Council, [after review by the Board of Zoning
7 Adjustment or the Planning Commission, as the case may be.]

8 SECTION 22: Subsection 19A.14.100(C)(8) of the Zoning Code of the City of Las Vegas is
9 hereby amended to read as follows:

10 8. All other off-premise signs shall be no higher than 40 feet from grade at the point of
11 construction, except that an off-premise sign within 60 feet of the right-of-way line of the street to
12 which it is oriented which, at a height of 40 feet, will have a significant portion of its display surface
13 obscured from view from the travel lanes of the street may be increased to a maximum of 55 feet when
14 authorized by the City Council, [after review by the Board of Zoning Adjustment or the Planning
15 Commission, as the case may be.]

16 SECTION 23: Subsection 19A.18.010(D)(3) of the Zoning Code of the City of Las Vegas is
17 hereby amended to read as follows:

18 3. **Timing.** The applicant shall post the required number of notification signs on the
19 property at least 10 days before the date of the first scheduled public hearing. [before the Planning
20 Commission or Board of Zoning Adjustment.]

21 SECTION 24: Subsection 19A.18.010(D)(6) of the Zoning Code of the City of Las Vegas is
22 hereby amended to read as follows:

23 6. **Failure to Comply.** If it is determined that the applicant has failed to comply with the
24 provisions of this section and that adequate notice has not been provided, the Planning Commission,
25 [Board of Zoning Adjustment] hearings officer or City Council shall hold the application in abeyance
26 or deny the application.

27 SECTION 25: Section 19A.18.070(B) of the Zoning Code of the City of Las Vegas is hereby
28 amended to read as follows:

1 **B. Scope and Limitations**

2 Pursuant to NRS Chapter 278 and this subchapter, the [Board of Zoning Adjustment] Planning
3 Commission, a hearings officer who has been appointed for that purpose and the City Council have
4 the authority to act upon Variance applications as set forth in this subchapter and as they deem
5 appropriate. Where a Variance application is proposed in connection with another application to be
6 heard by the Planning Commission, including an application for Special Use Permit, an application
7 for Rezoning, or an application for Site Development Plan Review, the Variance application shall be
8 considered by the Planning Commission, as a separate application, in conjunction with the associated
9 application. Other Variance applications shall be heard by the Planning Commission or by a hearings
10 officer, according to the type of application as classified by the Director. [However, a] A Variance
11 [may] shall not be granted in order to:

- 12 1. Permit a use in a zoning district in which the use is not allowed;
- 13 2. Vary any minimum spacing requirement between uses;
- 14 3. Relieve a hardship which is solely personal, self-created or financial in nature.

15 SECTION 26: Section 19A.18.070(C) of the Zoning Code of the City of Las Vegas is hereby
16 amended to read as follows:

17 **C. Application**

18 [A pre-application conference shall be required prior to the submittal of any application for
19 a Variance.] An application for a Variance shall be made [to the Board of Zoning Adjustment] on a
20 form provided by the Department of Planning and Development. This application shall be filed [with
21 the Secretary of the Board of Zoning Adjustment] at the office of the Department of Planning and
22 Development. The application shall be signed, notarized and acknowledged by the owner of record
23 of the property for which the Variance is sought; provided however, that:

24 1. **Other Governmental Ownership.** With respect to property which is owned by the
25 State of Nevada or the United States of America, a Variance application is sufficient if it is signed and
26 acknowledged by a prospective purchaser of that property who has entered into a contract with the
27 governmental entity to obtain ownership of the property;

28 2. **Non-Owner Applicant.** A Variance application is sufficient if it is signed and

1 acknowledged by a lessee, a contract purchaser or an optionee of the property for which a Variance
2 is sought. However, interest in that property must exist in a written agreement with the owner of
3 record attached to which is a copy of the Variance application and in which the owner of record has
4 authorized the lessee, contract purchaser or optionee to sign the application. The agreement must
5 further stipulate that the owner of record consents to the filing and processing of the application and
6 agrees to honor and be bound by the requested Variance if it is approved and by any conditions of
7 approval attached thereto.

8 SECTION 27: Subsection 19A.18.070(D)(3) of the Zoning Code of the City of Las Vegas is
9 hereby amended to read as follows:

10 **3. Withdrawn Without Prejudice.** The time periods that are described in Subsection
11 1 and 2 above, and that otherwise would become effective because of the withdrawal of an application,
12 shall not become effective if, after consideration of the timing and circumstances of the withdrawal,
13 the [Board of Zoning Adjustment] Planning Commission, a hearings officer or the City Council
14 specifically approves the withdrawal without prejudice.

15 SECTION 28: Section 19A.18.070(E) of the Zoning Code of the City of Las Vegas is hereby
16 amended to read as follows:

17 **E. Request for Abeyance**

18 An applicant who wishes to have an application held in abeyance following the notice and
19 posting [of the agenda of the Board of Zoning Adjustment] of a hearing before the Planning
20 Commission, a hearings officer or the City Council shall state good cause for the request. Good cause
21 shall be more than mere inconvenience to the applicant or lack of preparation.

22 SECTION 29: Section 19A.18.070(G) of the Zoning Code of the City of Las Vegas is hereby
23 amended to read as follows:

24 **G. [Board of Zoning Adjustment] Public Hearing and Action**

25 **1. Hearing.** [The Board of Zoning Adjustment] The Planning Commission or hearings
26 officer, as the case may be, shall hold a public hearing upon each application for a Variance within
27 65 days after the application is properly filed.

28 ...

1 **2. Notice.**

2 **a. Notice Provided.** Notice of the time, place and purpose of the hearing must
3 be given at least 10 days before the hearing by:

- 4 1) Publishing the notice in a newspaper of general circulation within the
5 City; and 2) Mailing a copy of the notice to:
- 6 a) The applicant;
- 7 b) Each owner of real property located within a minimum of 500
8 feet of the property described in the application;
- 9 c) Each tenant of any mobile home park that is located within 300
10 feet of the property described in the application;
- 11 d) Each owner of at least 30 parcels nearest to the property
12 described in the application to the extent this notice does not duplicate the notice otherwise required
13 by this section; [and]
- 14 e) Any advisory board which has been established for the affected
15 area by the City Council[.] ; and
- 16 f) The president or head of any registered local neighborhood
17 organization whose organization boundaries are located within a minimum of one mile of the property
18 described in the application.

19 **b. Names Provided.** The Department of Planning and Development shall
20 provide, at the request of the applicant, the name, address and phone number of any person notified
21 pursuant to subparagraph (f) above.

22 **c. Additional Notice.** The [Secretary of the Board of Zoning Adjustment]
23 Department may give additional notice of the hearing by expanding the area of notification or using
24 other means of notification or both. The [Secretary] Department shall endeavor to provide any
25 additional notice at least 10 days before the date of the hearing.

26 **3. Hearing.** The [Board of Zoning Adjustment] Planning Commission or hearings
27 officer, as the case may be, shall conduct a public hearing on the application. [In its] As a matter of
28 discretion and for good cause, the [Board of Zoning Adjustment] Planning Commission or hearings

1 officer may hold the application in abeyance for further study. Following the hearing or hearings, the
2 [Board of Zoning Adjustment] Planning Commission or hearings officer shall make [its] a decision
3 to approve, approve with conditions, or deny the Variance application. The decision shall be based
4 upon evidence that makes the grant or denial of the Variance appropriate. The decision shall either
5 be a final decision or a recommendation, as determined in accordance with Section 19A.18.070(J).

6 **4. Conditions of Approval Recommendation.** In approving or recommending the
7 approval of a Variance, the [Board of Zoning Adjustment] Planning Commission or hearings officer
8 may impose any conditions, restrictions or limitations as [the Board may determine to be] deemed
9 necessary to meet the general purpose and intent of this Title and to ensure that the public health,
10 safety and welfare are being maintained.

11 **5. Notice of [Board of Zoning Adjustment] Decision.** The [Board of Zoning
12 Adjustment] Planning Commission or hearings officer shall provide written notice of [its] each
13 decision[,] on a Variance application, which shall include the reasons for the decision and, if the
14 decision is to recommend approval of the Variance, any modifications, conditions or limitations that
15 the [Board may impose.] Planning Commission or hearings officer may impose or recommend to be
16 imposed in connection with the approval. The notice shall be provided to the applicant, agent, or both.

17 SECTION 30: Section 19A.18.070(J) of the Zoning Code of the City of Las Vegas is hereby
18 amended to read as follows:

19 **J. Appeals**

20 **1. Appeal of Denial.** A decision of the [Board of Zoning Adjustment] Planning
21 Commission or hearings officer to deny a Variance application becomes final and effective at the
22 expiration of 10 days after the date of the decision [of the Board] unless, within that period, the
23 applicant appeals the decision by written request filed with the City Clerk.

24 **2. Final Action [by City Council] Concerning [Approval.] Certain Approvals.** A
25 decision by the [Board of Zoning Adjustment] Planning Commission or hearings officer to approve
26 a Variance application regarding a reduction in required parking or an existing structure constitutes
27 a recommendation to the City Council. The City Council shall make the final decision concerning
28 the application. A decision to approve any other type of Variance application becomes final and

1 effective at the expiration of 10 days after the date of the decision unless, within that period, a member
2 of the City Council requests that the item be forwarded to the Council, or an aggrieved person appeals
3 the decision by written request filed with the City Clerk.

4 SECTION 31: Section 19A.18.070(K) of the Zoning Code of the City of Las Vegas is hereby
5 amended to read as follows:

6 **K. City Council Public Hearing and Action**

7 1. **Notice.** The City Council shall conduct a public hearing on any Variance application
8 which is appealed or forwarded to the Council for final action. At least ten days' written notice of the
9 hearing shall be sent to property owners who were sent notice of the public hearing conducted by the
10 [Board of Zoning Adjustment.] Planning Commission or hearings officer.

11 2. **Penalty.** If a structure which is the subject of a Variance application has been or is
12 being constructed without a building permit and is in violation of any of the provisions of this Title,
13 the City Council, in granting the Variance, may impose a penalty in an amount that does not exceed
14 10 percent of the value of the structure as determined in accordance with the City's Administrative
15 Code.

16 3. **City Council Decision.** The City Council may review the Variance application de
17 novo, and has the authority to reverse, modify, or confirm any action of the [Board of Zoning
18 Adjustment.] Planning Commission or hearings officer. In making a decision to approve the proposed
19 Variance, the City Council shall consider the decision of the [Board of Zoning Adjustment] Planning
20 Commission or hearings officer and the evidence presented at the public hearing. Action by the City
21 Council is final.

22 4. **Notice of City Council Decision.** The City Council shall provide written notice of its
23 decision, which shall include the reasons for the decision and, if the decision is to approve the
24 Variance, any modifications, conditions or limitations that the Council may impose. The notice shall
25 be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City
26 Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the
27 City Clerk.

28 SECTION 32: Section 19A.18.070(L) of the Zoning Code of the City of Las Vegas is hereby

1 amended to read as follows:

2 **L. Determinations**

3 1. In order to recommend approval of, or to approve a Variance application, the [Board
4 of Zoning Adjustment] Planning Commission, hearings officer or City Council must determine that
5 the variance is warranted both under State law and this subchapter. The minimum State law standards
6 are set forth in Subsection 2 below.

7 2. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece
8 of property at the time of the enactment of the regulation, or by reason of exceptional topographic
9 conditions or other extraordinary and exceptional situation or condition of the piece of property, the
10 strict application of any zoning regulation would result in peculiar and exceptional practical
11 difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from
12 that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be
13 granted without substantial detriment to the public good, without substantial impairment of affected
14 natural resources and without substantially impairing the intent and purpose of any ordinance or
15 resolution.

16 SECTION 33: Subchapter 19A.18.080 of the Zoning Code of the City of Las Vegas is hereby
17 repealed in its entirety.

18 SECTION 34: Chapter 19A.18 of the Zoning Code of the City of Las Vegas is hereby
19 amended by adding thereto a new Subchapter 80, consisting of Sections (A) to (L), inclusive, reading
20 as follows:

21 **SUBCHAPTER 19A.18.080**

22 **A. Purpose**

23 The purpose of this subchapter is to establish a procedure (entitled an Administrative
24 Deviation) to allow for minor adjustments of specific requirements of the Zoning Code where, because
25 of special and unique conditions applicable to a specific lot or structure, the literal enforcement of the
26 requirements as applied to the lot or structure would result in an unnecessary hardship. The
27 Administrative Deviation procedure is available as an alternative to the Variance procedure, to be
28 pursued at the option of the applicant.

1 **B. Authority**

2 The Director of Planning and Development shall have the authority to grant an Administrative
3 Deviation, in accordance with the provisions of this Subchapter, to allow a minor deviation on
4 residential lots regarding the following:

- 5 1. Front, rear and side yard building setbacks (for developed single family lots only);
- 6 2. Block wall heights; and
- 7 3. Accessory structure setbacks and heights.

8 **C. Eligibility to Apply**

9 1. No application for an Administrative Deviation regarding a building setback may be
10 submitted unless:

11 a. In the case of a required side or rear yard setback of ten feet or less, the
12 requested deviation will not exceed two feet, and construction within the reduced setback will not
13 extend more than 15 feet parallel to the property line from which the setback is measured;

14 b. In the case of a required side or rear yard setback of greater than ten feet or a
15 required front yard setback of greater than ten feet (exclusive of front-loading garages), the requested
16 deviation will not exceed 20%, and construction within the reduced setback will not extend more than
17 15 feet parallel to the property line from which the setback is measured;

18 c. The requested deviation is for a structure that will not exceed the greater of one
19 story or 15 feet in height; and

20 d. The applicant submits signatures representing ownership of all abutting
21 properties indicating no objection to the requested deviation.

22 2. No application for an Administrative Deviation regarding a block wall may be
23 submitted unless:

24 a. For a rear or side yard, the wall will not exceed eight feet in height;

25 b. For a front yard, the wall will not exceed six feet in height, with the top four
26 feet open; and

27 c. The applicant submits signatures representing ownership of all abutting
28 properties indicating no objection to the requested deviation.

1 3. No application for an Administrative Deviation may be submitted regarding the height
2 of an accessory structure unless:

3 a. The requested height does not exceed 1.2 times the height of the main dwelling
4 and does not exceed the allowable building height for the zoning district in which the property is
5 located; and

6 b. The applicant submits signatures representing the ownership of all abutting
7 properties indicating no objection to the requested deviation, or the ownership of all properties within
8 100 feet of the subject property, whichever would require the most signatures.

9 4. For purposes of this Section (C), the term "abutting" means sharing any property line
10 with the parcel for which the deviation is sought, or which would share a property line but for an
11 intervening right-of way. In the case of deviations for setbacks or block walls, the Director shall have
12 the authority to waive the signature requirement regarding properties which are deemed not to be
13 adversely affected.

14 **D. Application**

15 1. An application for an Administrative Deviation shall be made to the Director on a form
16 provided by the Department of Planning and Development. The application shall be filed with the
17 office of the Department of Planning and Development.

18 2. The application shall be signed, notarized and acknowledged by the record owner of
19 the property for which the Administrative Deviation is sought.

20 **E. Decision**

21 Within 30 days after a complete application for Administrative Deviation has been filed and
22 accepted, the Director shall make a decision to approve, approve with conditions or deny the
23 application.

24 **F. Administrative Deviation Determinations**

25 In order to approve an Administrative Deviation, the Director must determine that:

26 1. The request does not exceed the prescribed limitations of Section (C);
27 2. Granting the Administrative Deviation will not be inconsistent with the spirit and intent
28 of the General Plan;

1 3. The request is not intended to be combined with a previous or future Variance request
2 in order to achieve a deviation that would not likely be granted by means of Variance alone; and

3 4. That one or more of the following conditions exist:

4 a. There are special circumstances applicable to the property, such as size, shape,
5 topography, location or surroundings and that the strict application of the Code requirement deprives
6 the property of privileges enjoyed by other property in the vicinity and under the identical land use
7 district classification;

8 b. Granting the Administrative Deviation is necessary for the preservation and
9 enjoyment of a substantial property right possessed by other property owners in the same vicinity and
10 land use district and is denied to the property for which the Administrative Deviation is sought;

11 c. The Administrative Deviation will not be materially detrimental to the public
12 health, safety, or general welfare, or injurious to the property or improvements in the vicinity and land
13 use district in which the property is located; or

14 d. Granting the Administrative Deviation does not constitute a special privilege
15 inconsistent with the limitations upon other properties in the vicinity and land use district in which
16 the property is located.

17 **G. Conditions**

18 In connection with the approval of an Administrative Deviation, the Director may impose any
19 conditions, restrictions or limitations as the Director determines to be necessary to meet the general
20 purpose and intent of this Title and to ensure that the public health, safety and general welfare are
21 being maintained.

22 **H. Notice of Decision**

23 The Director shall provide written notice of his or her decision, which shall include the reasons
24 for the decision and, if the decision is to approve the Administrative Deviation, any modifications,
25 conditions or limitations that the Director may impose. The notice shall be provided to the owner or
26 the owner's agent.

27 **I. Precedents**

28 The fact that an Administrative Deviation for the same or similar use has been granted

1 previously for the subject property or nearby property is a factor to be considered, but is not
2 determinative.

3 **J. Burden of Proof**

4 The applicant bears the burden of proof to establish that the approval of an Administrative
5 Deviation is warranted.

6 **K. Premature Use of Property**

7 The issuance of a building permit or business license for a development or structure that cannot
8 be permitted without an Administrative Deviation, before an Administrative Deviation is approved,
9 does not replace or otherwise affect the Administrative Deviation requirement.

10 **L. Revocation**

11 1. **Notice.** The Director may hold a hearing to revoke or modify an Administrative
12 Deviation. At least 10 days prior to any hearing, written notice of the hearing shall be delivered to the
13 owner or developer, or both. Notice may be delivered in person or certified mail, return receipt
14 requested, mailed to the address shown in the records of the Clark County Assessor.

15 2. **Grounds.** An Administrative Deviation may be revoked or modified for cause,
16 including a finding of one or more of the following:

- 17 a. That the Administrative Deviation was obtained by misrepresentation or fraud;
- 18 b. That the development or structure is not in compliance with one or more of the
19 conditions of approval;
- 20 c. That the development or structure permitted by the Administrative Deviation
21 is in violation of any statute, ordinance, law or regulation.

22 3. **Notice of Decision.** Written notice of the decision shall be provided to the owner,
23 developer or agent. A copy of the notice shall also be filed with the City Clerk, and the date of the
24 notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

25 SECTION 35: Section 19A.18.100(B) of the Zoning Code of the City of Las Vegas is hereby
26 amended to read as follows:

27 **B. Authority**

- 28 1. The Director of the Department of Planning and Development shall have the authority

1 to approve, approve with conditions, or deny a Temporary Commercial Permit.

2 2. The Director may at any time refer an application for a Temporary Commercial Permit
3 to [the Board of Zoning Adjustment.] a hearings officer for decision.

4 SECTION 36: Section 19A.18.100(E) of the Zoning Code of the City of Las Vegas is hereby
5 amended to read as follows:

6 **E. Appeal**

7 The applicant may appeal a decision of the Director to [the Board of Zoning Adjustment] a
8 hearings officer by filing a written request with the Department of Planning and Development. Any
9 appeal pursuant to this section must be filed within 10 days after the date of the decision that is the
10 subject of the appeal. The decision of the [Board of Zoning Adjustment] hearings officer is final[.],
11 unless appealed to the City Council as in the case of a Variance.

12 SECTION 37: Section 19A.18.100(F) of the Zoning Code of the City of Las Vegas is hereby
13 amended to read as follows:

14 **F. Conditions of Approval**

15 In approving a Temporary Commercial Permit, the Director (or, upon appeal, [the Board of
16 Zoning Adjustment] a hearings officer) may impose conditions, stipulations or limitations as are
17 deemed necessary to ensure that the activity will be consistent with Section (D) of this subchapter.
18 Such conditions may include, but are not limited to the following:

- 19 1. Provision for temporary parking facilities, including vehicle ingress and egress;
- 20 2. Measures to prevent or reduce nuisance factors such as glare, excessive illumination,
21 noise, vibration, smoke, dust, dirt, odors, gases and heat;
- 22 3. Regulation of placement, height, size and location of structures, facilities, landscaping
23 and equipment, including provision for buffering and separation;
- 24 4. Provision for sanitary facilities and for waste collection and disposal;
- 25 5. Measures to promote safety and security;
- 26 6. Regulation of signs and other attention-gaining devices;
- 27 7. Regulation of operating hours and duration of the temporary commercial use;
- 28 8. Compliance with applicable provisions of the Las Vegas Municipal Code;

1 9. Any other conditions which will ensure the operation of the proposed temporary use
2 is conducted in an orderly, efficient manner and in accordance with the intent and purpose of this
3 subchapter.

4 SECTION 38: Section 19A.18.110(C) of the Zoning Code of the City of Las Vegas is hereby
5 amended to read as follows:

6 **C. Authority**

7 The Director of [the Department of Planning and Development, subject to appeal to the Board
8 of Zoning Adjustment,] Planning and Development or, upon appeal, a hearings officer, shall have the
9 authority to approve, approve with conditions, or deny a Home Occupation Permit. In approving a
10 Home Occupation application, the Director (or if applicable, [the Board of Zoning Adjustment] a
11 hearings officer) may impose conditions, stipulations or restrictions as are deemed necessary to ensure
12 that the activity will be consistent with the intent of this subchapter.

13 SECTION 39: Subsection 19A.18.110(G)(1) of the Zoning Code of the City of Las Vegas is
14 hereby amended to read as follows:

15 1. In order to approve a Home Occupation Permit, the Director (or if appealed, [the Board
16 of Zoning Adjustment] a hearings officer) must be satisfied that the proposed Home Occupation can
17 and will comply with the following operational standards:

18 a. Only the occupants of the dwelling unit shall be engaged in the business activity
19 approved for the Home Occupation Permit;

20 b. No employees shall report to work or be dispatched from the property;

21 c. There shall be no transacting of business or offers to transact business with
22 customers or clients who have come to the property;

23 d. There shall be no signage or other advertising of any kind, whether on the
24 property or elsewhere, which advertises the address or physical location of the property or identifies
25 the existence of a Home Occupation on the property. A home telephone number or a post office box
26 may be advertised by any medium other than on-site signage;

27 e. No motor vehicle repair, paint or body work; commercial preparation of food
28 for service on the premises; business related to or involving explosives, ammunitions or weapons;

1 beauty parlor or barber shop; or ambulance or related emergency services shall be permitted as a
2 Home Occupation;

3 f. A Home Occupation shall not create pedestrian, automobile or truck traffic in
4 excess of the normal amount associated with residential uses in the district;

5 g. A Home Occupation shall be conducted exclusively within the main dwelling
6 or within an accessory structure which has been approved for the Home Occupation Permit, except
7 for horticultural activities;

8 h. No more than one vehicle, with a maximum capacity of one-ton, shall be used
9 in connection with a Home Occupation Permit;

10 i. The number of on-site parking spaces shall not be reduced to less than two;

11 j. There shall be no outdoor storage or use of any toxic chemicals or hazardous
12 materials of any type or in any amount not normally found in a residential structure;

13 k. There shall be no electrical or mechanical equipment which is not normally
14 found in a residential structure, and no equipment found on the premises shall cause a change in the
15 fire safety or occupancy classification of the dwelling unit; and

16 l. No Home Occupation shall create or cause noise, dust, light, vibration, gas,
17 fumes, toxic/hazardous materials, smoke, glare, electrical interference or other hazards or nuisances.

18 SECTION 40: Section 19A.18.110(H) of the Zoning Code of the City of Las Vegas is hereby
19 amended to read as follows:

20 **H. Appeal of Director's Action**

21 If the applicant is aggrieved by the Director's decision, or any conditions attached
22 thereto, the applicant may appeal the decision to [the Board of Zoning Adjustment] a hearings officer
23 by written request within 10 days after the date of decision by the Director. The appeal must be filed
24 in the Department of Planning and Development. [Within 30 days after receipt of the written appeal,
25 the Director shall schedule the appeal onto the next available Board of Zoning Adjustment agenda.
26 The Board of Zoning Adjustment] The appeal hearing shall be scheduled as soon as is reasonably
27 possible, and appropriate notice of the hearing shall be provided. The hearings officer may affirm,
28 reverse or modify the Director's decision. Notice of the [Board's] hearings officer's decision shall be

1 provided to the applicant or the applicant's agent, and the date of the notice shall be deemed to be the
2 date notice of the decision is filed with the City Clerk.

3 SECTION 41: Section 19A.18.110(I) of the Zoning Code of the City of Las Vegas is hereby
4 amended to read as follows:

5 **I. Optional Treatment of Appeal**

6 The Director[, or the Board of Zoning Adjustment by majority vote,] or hearings officer may
7 require that an appeal filed pursuant to Section (H) be heard as a public hearing item. The requirement
8 for a public hearing must be based upon a determination that, in the instance of that particular
9 application, the public interest will best be served by providing notice and an opportunity to be heard
10 to surrounding property owners. In such event, the Director [of the Department of Planning and
11 Development] shall process the application in accordance with the standards and procedures for
12 Special Use Permit applications.

13 SECTION 42: Section 19A.18.110(L) of the Zoning Code of the City of Las Vegas is hereby
14 amended to read as follows:

15 **L. Revocation or Modification**

16 1. **Notice and Hearing.** Upon proper notice to, and an opportunity to be heard by, the
17 permit holder, the Director may revoke or modify a Home Occupation permit if the Director
18 determines one or more of the following:

- 19 a. That the Home Occupation is not in compliance with one or more of the
20 Operational Standards of this subchapter;
21 b. That the Home Occupation Permit was obtained by misrepresentation or fraud;
22 c. That the Home Occupation is being conducted in violation of any statute,
23 ordinance, law or regulation[;].

24 2. **Appeal and Notice of Decision.** The Director's decision may be appealed in the same
25 manner as the initial denial of a Home Occupation Permit, in accordance with Section (H). The
26 provisions of Section (I) shall not apply to the appeal, except that the Director and the [Board of
27 Zoning Adjustment] hearings officer may provide notice and opportunity to be heard to surrounding
28 property owners.

1 SECTION 43: Section 19A.20.020 of the Zoning Code of the City of Las Vegas is hereby
2 amended by deleting the term "Board" and its corresponding definition.

3 SECTION 44: Section 19A.20.020 of the Zoning Code of the City of Las Vegas is hereby
4 amended by amending the respective definitions of the terms "Review Authority" and "Standard
5 Conditions" to read as follows:

6 **Review Authority**

7 The authority responsible for the review and final action on an application filed under this
8 Title, such as the City Council, Planning Commission, [Board of Zoning Adjustment] a hearings
9 officer or the Director.

10 **Standard Conditions**

11 Conditions which have been approved by the Planning Commission, [Board of Zoning
12 Adjustment or] a hearings officer or the City Council and which are designed to be imposed as a
13 matter of course, where applicable, on the approval of development applications.

14 SECTION 45: Section 19A.20.020 of the Zoning Code of the City of Las Vegas is hereby
15 amended by adding thereto the following term, along with its corresponding definition:

16 **Hearings Officer**

17 A person appointed pursuant to LVMC Chapter 2.22 to hear appeals and other applications
18 under this Title. The term refers to the "hearing examiner" authorized under NRS 278.262 to 278.265,
19 inclusive.

20 SECTION 46: Following the adoption of this Ordinance, in the event of conflict, disagreement
21 or uncertainty regarding the processing of appeals and other items previously heard by the Board of
22 Zoning Adjustment, the Director, in his discretion, may apply the procedures, rules and practices
23 formerly applicable to proceedings before the Board of Zoning Adjustment in order to accomplish the
24 purposes of this Title.

25 SECTION 47: This Ordinance shall become effective 60 days after its adoption. Except as
26 otherwise determined by the Director in his sole discretion:

27 (A) Applications which were filed on or after the effective date of this Ordinance shall be
28 processed in accordance with this Ordinance.

1 (B) Applications which were pending or on file before that date shall be processed in
2 accordance with the provisions in effective prior to the adoption of this Ordinance.

3 SECTION 48: If any section, subsection, subdivision, paragraph, sentence, clause or phrase
4 in this ordinance or any part thereof, is for any reason held to be unconstitutional, or invalid or
5 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
6 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
7 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
8 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
9 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
10 invalid or ineffective.

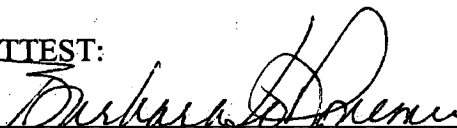
11 SECTION 49: All ordinances or parts of ordinances or sections, subsections, phrases,
12 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
13 1983 Edition, in conflict herewith are hereby repealed.

14 PASSED, ADOPTED and APPROVED this 15th day of March, 2000.

15 APPROVED:

16 By 
17 OSCAR B. GOODMAN, Mayor

18 ATTEST:

19 
20 BARBARA JO RONEMUS, City Clerk

21 APPROVED AS TO FORM:

22  2-29-2000
23 Date

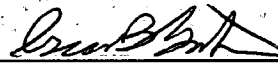
1 The above and foregoing ordinance was first proposed and read by title to the City Council on
2 the 2nd day of February, 2000 and referred to the following committee composed of
3 Councilmen Weekly and Mack for recommendation; thereafter the said committee reported
4 favorably on said ordinance on the 15th day of March, 2000 which was a regular meeting
5 of said Council; that at said regular meeting, the proposed ordinance was read by title to the
6 City Council as amended and adopted by the following vote:

7 VOTING "AYE": Mayor Goodman and Councilmembers M. McDonald, Reese, Brown,
8 L. McDonald, Weekly and Mack

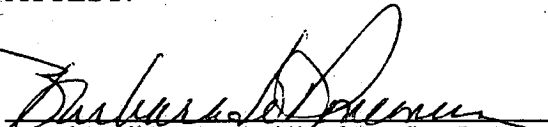
9 VOTING "NAY": NONE

10 EXCUSED: NONE

11 APPROVED:

12 
13 OSCAR B. GOODMAN, Mayor

14 ATTEST:

15 
16 BARBARA JO RONEMUS, City Clerk

PROPOSED FIRST AMENDMENT

BILL NO. 2000-12

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE LAS VEGAS MUNICIPAL CODE TO ESTABLISH NEW PROCEDURES FOR HEARING CERTAIN APPEALS, VARIANCE APPLICATIONS AND SIMILAR MATTERS AS A REPLACEMENT FOR THE BOARD OF ZONING ADJUSTMENT, TO REPEAL CODE AND ORDINANCE PROVISIONS PERTAINING TO THE BOARD, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by:
Willard Tim Chow, Director
Planning and Development

Summary: Establishes new procedures for hearing certain appeals, variance applications and similar matters under the Municipal Code as a replacement for the Board of Zoning Adjustment.

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

SECTION 1: Section 5 of Ordinance No. 5193 of the City of Las Vegas, and Title 2, Chapter 45, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby repealed in their entirety.

SECTION 2: Title 2, Chapter 22, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new article or division, consisting of Sections 100, 110 and 120, reading as follows:

2.22.100: The City Council may appoint one or more hearing officers to conduct hearings and render decisions concerning appeals and other applications that arise under Title 19A and other provisions of the Municipal Code that relate to the development and use of land. The appointment of hearing officers shall be in accordance with this Chapter and with NRS 278.262 to 278.265, inclusive. The hearing officer or officers so appointed shall be the "hearing examiners" referred to in NRS 278.262 to 278.265, inclusive.

2.22.110: Any hearing officer appointed pursuant to Section 2.22.100 shall serve at the pleasure of the City Council, and shall conduct hearings and decide appeals in accordance with the provisions of the Municipal Code that pertain to those matters. Except as otherwise provided in the Municipal Code for a particular type of case, the decision of a hearing officer shall be final action, subject to appeal to the City Council by a person who is aggrieved.

1 **2.22.120:** The provisions of Sections 2.22.020(B), 2.22.030, 2.22.040, and 2.22.090 shall apply
2 to any hearing officer appointed pursuant to Section 2.22.100 to the same degree as if the hearing
3 officer were a "hearing examiner" under those provisions.

4 SECTION 3: Title 2, Chapter 49, Section 10, of the Municipal Code of the City of Las Vegas,
5 Nevada, 1983 Edition, is hereby amended to read as follows:

6 **2.49.010:** A person is not eligible to serve on the Las Vegas Housing Authority Board, Las
7 Vegas-Clark County Library District Board of Trustees, Planning Commission, Traffic and Parking
8 Commission, Board of Civil Service Trustees, [Board of Zoning Adjustment,] Child Care Licensing
9 Board, Citizens Advisory Review Board and Citizens Priority Advisory Committee that are
10 established by this Code or by City Council action unless he or she is a resident of the City. All
11 nonresidents of the City who are members of these boards or commissions on the date the ordinance
12 codified in this section becomes effective shall be allowed to complete their terms of office.

13 SECTION 4: Title 2, Chapter 51, Section 20, of the Municipal Code of the City of Las Vegas,
14 Nevada, 1983 Edition, is hereby amended to read as follows:

15 **2.51.020:** (A) "Business entity" means any corporation, general or limited partnership, sole
16 proprietorship (including a private consultant operation) joint venture, unincorporated association or
17 firm, institution, trust, foundation, or other organization, whether or not organized for profit. Business
18 entity does not include local, state or federal agencies or political subdivisions thereof.

19 (B) "Confidential information" means all information, whether transmitted verbally or in
20 writing, which is of such a nature that it is not, at the time, a matter of public record or public
21 knowledge.

22 (C) "Gift" means anything of economic value, regardless of the form, without adequate and
23 lawful consideration, but not including:

24 (1) The solicitation, acceptance, receipt or regulation of political campaign
25 contributions regulated in accordance with provisions of federal, state, or local laws governing
26 campaign finances;

27 (2) A nonpecuniary gift with an economic value of less than one hundred dollars;

28 (3) A nonpecuniary award presented in recognition of public service;

1 (4) Any reasonable hosting, including travel expenses, entertainment, meals, or
2 refreshments furnished in connection with appearances, ceremonies, and other occasions reasonably
3 relating to official City business, unless otherwise prohibited by law;

4 (5) Gifts from family members related within the third degree of consanguinity or
5 affinity; or

6 (6) Invitations to political fund raisers.

7 (D) "Interest," except as otherwise specifically provided, means direct or indirect pecuniary
8 or material benefit accruing to a public officer or employee as the result of a contract, transaction,
9 zoning decision, or other matter which is or may be the subject of an official act or action by or with
10 the City except for such contracts, transactions, zoning decisions, or other matters which by their
11 terms and by the substance of their provisions confer the opportunity and right to realize the accrual
12 of similar benefits to all other persons and/or property similarly situated. For purposes of this Chapter,
13 a public officer or employee shall be deemed to have an interest in the affairs of:

14 (1) The officer's or employee's spouse or children;

15 (2) Any person or business entity with whom a contractual relationship exists with
16 a public officer or employee to the extent of and within the parameter of such contractual relationship
17 only;

18 (3) Any business entity in which the public officer or employee is an officer,
19 director, member, or employee; and

20 (4) Any business entity in which the public officer or employee controls or owns
21 directly or indirectly, in excess of five percent of the total stock or an interest totaling fifty thousand
22 dollars or more in value.

23 (E) "Lobbyist" means any person who communicates directly with a member of the City
24 Council on behalf of someone other than him or herself to influence action by the City Council and
25 who is compensated for the communication. "Lobbyist" does not include members of a bona fide news
26 medium who meet the definition of "lobbyist" only in the course of their professional duties and who
27 contact members of the Council for the sole purpose of carrying out their news gathering function.

28 (F) "Official act or action" means any legislative, administrative, appointive or

1 discretionary act of any officer or employee of the City or any agency, board, committee or
2 commission thereof.

3 (G) "Public board member," unless otherwise stated in this Chapter, means any person,
4 holding a position by appointment of the City Council, whether paid or unpaid, to the following City
5 boards, committees and commissions:

6 (1) The Board of Civil Service Trustees;

7 (2) [The Board of Zoning Adjustment;

8 [(3)] (2) The Child Care Licensing Board;

9 [(4)] (3) The Ethics Review Board;

10 [(5)] (4) The Historic Preservation Commission;

11 [(6)] (5) The Parks and Recreation Advisory Commission;

12 [(7)] (6) The Planning Commission;

13 [(8)] (7) The Traffic and Parking Commission.

14 Though the Las Vegas Housing Authority and the Las Vegas-Clark County Library District Board of
15 Trustees are not agencies of the City, members, whether paid or unpaid, appointed to the governing
16 body of these local government agencies by the City Council are subject to the provisions of this
17 Chapter.

18 (H) "Public employee," unless otherwise stated in this Chapter, means any person, holding
19 a position by appointment or employment in the service of the City, whether paid or unpaid. The term
20 "appointed public employee" means a person appointed to the position of City Engineer, City Traffic
21 Engineer, City Treasurer, and Deputy Director or above which is established by the Constitution of
22 the State of Nevada, a statute of this State, the Las Vegas City Charter or a City ordinance.

23 (I) "Public officer" means the Mayor and the City Council members.

24 SECTION 5: Title 2, Chapter 52, Section 10, of the Municipal Code of the City of Las Vegas,
25 Nevada, 1983 Edition, is hereby amended to read as follows:

26 **2.52.010:** As used in this Chapter, "commission or board" means any administrative commission
27 or board established by the [Board of Commissioners] City Council and described in Title 2 of this
28 Code, [the Board of Adjustment described in Title 19,] and the Child [Welfare and Solicitations

1 Review Boards] Care Licensing Board described in Title 6.

2 SECTION 6: Title 10, Chapter 80, Section 40, of the Municipal Code of the City of Las
3 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

4 **10.80.040:** (A) The [Board of Zoning Adjustment] City Council may grant a variance from the
5 prohibitions contained in Section 10.80.020 if it finds that the granting of such variance will not be
6 materially detrimental to the public safety and welfare or injurious to other property or improvements
7 in the vicinity. The [Board] Council may impose such conditions upon the granting of a variance as
8 it deems appropriate.

9 (B) [The] To the extent possible, the variance procedures set forth in [Sections 19.88.030
10 to 19.88.180, inclusive,] Title 19A shall apply to variance applications [authorized by] heard by the
11 City Council pursuant to this Section, with the following exceptions:

12 (1) The fee chargeable in connection with a variance application shall be fifty
13 dollars, [, except that the fee shall be waived with respect to any application concerning a location
14 which, on September 1, 1985, was being used, on a regular basis, for the parking of tour buses.]

15 (2) The area for notification of property owners shall be within one hundred fifty
16 feet of the exterior boundary lines of the lot or parcel described in the application.

17 SECTION 7: Title 13, Chapter 16, Section 90, of the Municipal Code of the City of Las
18 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

19 **13.16.090:** (A) In [Single-family Residence, Residential Planned Development, and Mobile
20 Home Residence Districts,] the R-1, R-PD, and R-MH[,] Zoning Districts, the maximum depressed
21 curb cut length shall be eighteen feet and shall be located in accordance with City Specifications or
22 Drawings.

23 (B) In [Non-Urban, Residence Estates, Ranch Acres, Single-family Residence-restricted,
24 Two-family, Limited Multiple, Apartment Residence, Downtown Apartment, High Rise Apartment,
25 and Residential Mobile Home Park Districts, N-U, R-E, R-A, R-D, R-2, R-3, R-4, R-5, R-6 and
26 R-MHP,] all other residential zoning districts, the maximum depressed curb cut length shall not
27 exceed twenty-five feet and shall be located in accordance with City Specifications or Drawings.

28 (C) In [Professional Office and Parking, Neighborhood Commercial, Designed

1 Commercial, Limited Commercial, General Commercial, Commercial Industrial, Industrial, and Civic
2 Districts, P-R, C-C, C-D, C-1, C-2, C-M, M, and C-V, and for uses permitted by a use permit issued
3 by the Board of Zoning Adjustment which are similar in nature to the uses permitted in the
4 aforementioned districts,] nonresidential zoning districts, the maximum depressed curb cut length
5 shall be thirty-two feet and shall be located in accordance with City Specifications and Drawings.

6 SECTION 8: Title 20, Chapter 8, Section 280, of the Municipal Code of the City of Las
7 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

8 **20.08.280:** (A) The [Board of Zoning Adjustment] City Council shall hear and decide appeals
9 when it is alleged there is an error in any decision, determination or interpretation of the Director of
10 Public Works regarding the requirements of this Chapter.

11 (B) Such appeals shall be made in accordance with the provisions of NRS 278.310.

12 (C) Prior to the hearing on the appeal, the Director of Public Works shall file a report with
13 the [Board of Zoning Adjustment] City Council supporting his decision. Such report shall as near as
14 practicable contain the information required in Subsection (C) of Section 20.08.290.

15 SECTION 9: Title 20, Chapter 8, Section 290, of the Municipal Code of the City of Las
16 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

17 **20.08.290:** (A) [The Board of Zoning Adjustment shall hear and decide requests] Except as
18 otherwise provided in this Chapter, requests for variances from the requirements of this Chapter shall
19 be heard and decided in the manner and in accordance with the variance procedures set forth in
20 [Chapter 19.88.] Title 19A.

21 (B) [Any person aggrieved by the decision of the Board of Zoning Adjustment on a
22 variance application may appeal such decision to the City Council in the manner and in accordance
23 with the procedures set forth in Chapter 19.88.

24 (C)] Prior to [the public] a hearing on the variance [before the Board of Zoning
25 Adjustment,] application, the Director of Public Works shall file a report [with the Board of Zoning
26 Adjustment on] concerning the application, [for a variance,] which shall contain the following
27 information at a minimum:

28 (1) Location of the parcel;

- (2) The tributary drainage area;
- (3) The ten-year and one-hundred-year flood discharge, with an allowance for sediment and future development;
- (4) The depth and velocity of flow across or adjacent to the parcel;
- (5) The requirement from which a variance is requested;
- (6) Engineering considerations underlying the requirement;
- (7) Possible alternatives to the requirements;
- (8) Mitigating circumstances, if any; and
- (9) [Recommended] The recommended action.

(D) [In passing upon applications for variances, the Board of Zoning Adjustment shall consider the] Action on a variance application shall be based upon the report provided for in Subsection (C) of this Section, all technical evaluations, all relevant factors, and all standards specified in other sections of this Chapter.

(E) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Subsection (C) of this Section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(F) [The Board of Zoning Adjustment may attach such conditions to the granting of variances as it deems] The granting of a variance may be conditioned upon such measures as are deemed necessary to further the purposes of this Chapter.

SECTION 10: Title 20, Chapter 8, Section 300, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

20.08.300: (A) The Director of Public Works shall compile and maintain a complete record of all appeals and variances filed [with the Board of Zoning Adjustment,] under this Chapter, shall report any variances to the Federal Insurance Administration upon request, and shall include statements documenting the findings required for variances under Subsection (D) of Section 20.08.310.

1 SECTION 11: Title 20, Chapter 8, Section 320, of the Municipal Code of the City of Las
2 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

3 **20.08.320:** (A) The Director of Public Works shall appoint a Technical Committee consisting
4 of three members chosen from the general public who have technical knowledge and experience in
5 civil engineering and/or flood control engineering and who would be qualified to assist in the appeal
6 or variance review process set forth in Sections 20.08.280 through 20.08.310. The applicant at his
7 option may elect at the time of the filing of an appeal or an application for a variance to have the
8 Technical Committee review the application prior to the hearing and make a recommendation thereon,
9 [to the Board of Zoning Adjustment.] The Director of Public Works may charge the applicant an
10 administrative fee to defray the costs of the review and preparation of a report.

11 (B) The initial members of the Technical Committee shall be appointed for one-, two- and
12 three-year terms and all subsequent appointments shall be for two years. All vacancies occurring
13 during a term of office shall be filled to the end of the term. Members may be removed by the Director
14 of Public Works or the City Manager for cause.

15 SECTION 12: Section 19A.00.060(F) of the Zoning Code of the City of Las Vegas is hereby
16 amended to read as follows:

17 **F. Director Defined**

18 For the purposes of this Title, the term "Director" means the Director of the Department of
19 Planning and Development or the Director's designee. The Director is hereby designated as the
20 Secretary of the Planning Commission, [and the Secretary of the Board of Zoning Adjustment.]

21 SECTION 13: Section 19A.00.070(B) of the Zoning Code of the City of Las Vegas is hereby
22 amended to read as follows:

23 **B. Violation-Misdemeanor**

24 It is unlawful for any person, whether acting as a principal, agent, or employee, to violate any
25 provision of this Title, or of any condition imposed upon a Rezoning, Special Use Permit, Site
26 Development Review, Variance, [Minor Exception,] Administrative Deviation, Home Occupation
27 Permit or Temporary Commercial Permit granted hereunder. It is unlawful for the owner, general
28 agent, lessee or tenant of a building or premises or for any other person to cause, permit or assist in

1 the occurrence or commitment of a violation of any provision of this Title or of any condition imposed
2 upon a Rezoning, Special Use Permit, Site Development Review, Variance, [Minor Exception,]
3 Administrative Deviation, Home Occupation Permit or Temporary Commercial Permit granted
4 hereunder.

5 SECTION 14: Section 19A.00.070(F) of the Zoning Code of the City of Las Vegas is hereby
6 amended to read as follows:

7 **F. Appeals of Interpretation**

8 [1. Procedure.] Any person aggrieved in connection with the inability to obtain a building
9 permit or by the decision of any administrative officer or agency based upon or made in the course
10 of the administration or enforcement of any provision of this Title may appeal the decision to the
11 [Board of Zoning Adjustment.] City Council. An appeal must be in written form and must be filed
12 [with the Secretary of the Board of Zoning Adjustment at the offices of] in the office of the City Clerk.
13 with a copy to be filed in the office of the Department of Planning and Development. The appeal must
14 be filed within ten days after the administrative decision is made [. The appeal] and shall specifically
15 describe the decision at issue and the basis for the appeal. The appeal shall be considered on the next
16 available agenda of the City Council.

17 [2. Authority. The authority of the Board of Zoning Adjustment to review administrative
18 decisions is limited to the interpretation and application of the provisions of this title. No action by
19 the Board of Zoning Adjustment shall be deemed to alter or repeal any provision of this Title or of any
20 other law, ordinance or regulation.

21 3. Decision. The Board of Zoning Adjustment shall promptly decide the issue and
22 provide written notice of its decision to the appellant.]

23 SECTION 15: Section 19A.04.080(B) of the Zoning Code of the City of Las Vegas is hereby
24 amended to read as follows:

25 **B. Appeals**

26 An applicant who is aggrieved by the decision of the Director with respect to the allow ability
27 of an unlisted use may [file an appeal of] appeal the decision to the [Board of Zoning Adjustment.]
28 City Council. The appeal shall be filed in the office of the City Clerk, with a copy to be filed in the

1 office of Department of Planning and Development. Unless otherwise stated in the [Board] Council's
2 action, the determination of the [Board] Council with respect to the appeal shall constitute a
3 permanent and consistent interpretative decision which the Director shall apply in all future instances.

4 SECTION 16: Section 19A.04.080(C) of the Zoning Code of the City of Las Vegas is hereby
5 amended to read as follows:

6 **C. Conditions**

7 When considering requests to permit a new or unlisted land use as being similar to a listed use,
8 the Planning Director or [Board of Zoning Adjustment] City Council shall consider the potential
9 effects of the use on adjacent properties in terms of requirements for services, visual impact, traffic
10 generation, the extent to which the use is consistent with other uses allowed in the district, and other
11 issues they deem appropriate. Based upon such consideration, the Director or [Board of Zoning
12 Adjustment,] Council, in approving a request under this Subchapter, may impose appropriate and
13 reasonable conditions designed to ensure compatibility and consistency of uses.

14 SECTION 17: Section 19A.04.080(D) of the Zoning Code of the City of Las Vegas is hereby
15 amended to read as follows:

16 **D. Authorization of New Uses**

17 New uses which have been permitted by the Director or [Board of Zoning Adjustment,] City
18 Council pursuant to the subchapter[,], shall be added by ordinance amendment on a periodic basis.

19 SECTION 18: Section 19A.06.020(C) of the Zoning Code of the City of Las Vegas is hereby
20 amended to read as follows:

21 **C. Similar Uses**

22 1. **Additional Uses.** The uses permitted in this subchapter are classified on the basis of
23 common operational characteristics and land use compatibility. Uses not specifically listed in this
24 subchapter are prohibited. However, additional uses may be permitted by the Director if the Director
25 finds the use to be similar to the other uses listed in the same zoning district.

26 2. **Appeal of Decision.** An applicant who is aggrieved by the decision of the Director
27 may [file an appeal of] appeal that decision to the [Board of Zoning Adjustment,] City Council. The
28 appeal shall be filed in the office of the City Clerk, with a copy to be filed in the office of the

1 Department of Planning and Development. The appeal must be filed within ten days after the
2 Director's decision is made. Unless otherwise stated, the [Board's] Council's determination shall
3 constitute a permanent and consistent interpretative decision, which the Director shall apply in all
4 future instances.

5 SECTION 19: Subsection 19A.08.040(B)(2) of the Zoning Code of the City of Las Vegas is
6 hereby amended to read as follows:

7 **2. Fences and Walls**

8 **a. Height.** Except as otherwise specifically permitted in this Title, the maximum
9 permitted height of walls, fences and hedges in residential districts shall be governed by the following:

10 1) Rear Yard Area—Six feet solid or open.
11 2) Side Yard Area—Six feet solid or open.
12 3) Required Front Yard Area—Four feet total, with the top two vertical feet 50
13 percent open to permit visibility. Hedges planted along the front yard property line shall not exceed
14 three vertical feet. Retaining walls along the front property line may not retain more than two feet.
15 Where the grade of the front yard slopes more than 2:1 ratio, multiple retaining walls may be
16 constructed, provided there is a minimum distance of five feet between retaining walls for
17 landscaping.

18 4) The maximum height of permitted fences/walls along the front property line
19 shall be measured from the elevation of the adjoining sidewalk. Where such walls are set back, they
20 shall be measured from the finished grade.

21 5) The maximum height of permitted fences/walls in the side and rear yard areas
22 shall be measured on the side with the least vertical exposure above finished grade.

23 6) Screening or fencing for tennis/sports courts is permitted in the rear or side yard
24 area. Such structures may exceed the height of six feet, but shall not be higher than 12 feet. The
25 portion above the height of six feet shall be open so as not to restrict light or ventilation and provided
26 such fencing shall be setback a minimum of 5 feet from the side and rear property lines.

27 7) The Director may approve walls and/or fences in excess of the limitations set
28 forth herein as [a Minor Exception] an Administrative Deviation pursuant to Subchapter 19A.18.080.

1 **b. Barbed Wire/Razor Wire Fences.** The use of barbed or razor wire or similar security
2 fencing materials shall comply with the standards set forth in the most recent edition of the Uniform
3 Building Code, as adopted by the City.

4 **c. Corral and Stable Fencing.** Fencing for corrals and stables is permitted in accordance
5 with Section 19A.04.040 (C).

6 SECTION 20: Section 19A.08.060(H) of the Zoning Code of the City of Las Vegas is hereby
7 amended to read as follows:

8 **H. Exclusions**

9 **1. Higher Ambient Light Levels.** Where existing ambient light levels from multiple
10 sources already exceed the standards, the subject source may not increase the existing light levels,
11 unless approved [by the Board of Zoning Adjustment or by the City Council as part of an approved]
12 in connection with the approval of a Site Development Plan.

13 **2. Public Facilities and Activities Excluded.** Public facilities and activities are excluded
14 from the standards in this subchapter. Such activities include:

15 a. Any activity by the City, its agents, contractors or franchisees in the conduct
16 of traditional governmental activities such as trash removal, police and fire protection; and

17 b. Any public event such as outdoor recreational events, concerts and other events
18 sponsored by a public or non-profit organization and located on public or non-profit property.

19 SECTION 21: Subsection 19A.14.100(C)(7) of the Zoning Code of the City of Las Vegas is
20 hereby amended to read as follows:

21 **7. Off-premise signs** which are within 660 feet of the right-of-way and which can be read
22 from Interstate 15, US 95 from the north city limits to the Oran K. Gragson Highway, the Oran K.
23 Gragson Highway or Interstate 515 shall not be higher than 40 feet except as provided in Paragraphs
24 (a) and (b) below. The height shall be measured from the grade at the point of construction to the top
25 of the sign. The display surface shall not be higher than 30 feet nor wider than 60 feet.

26 a. An off-premise sign within 150 feet of the right-of-way line of an elevated
27 freeway or highway to which it is oriented may be erected 30 feet above the elevation of the elevated
28 roadway surface nearest the sign.

1 b. An off-premise sign within 150 feet of the right-of-way line of any freeway or
2 highway to which it is oriented which, at a height of 40 feet, will have a significant portion of its
3 display surface obscured from view from the travel lanes of the freeway or highway may be increased
4 to a maximum of 55 feet when authorized by the City Council, [after review by the Board of Zoning
5 Adjustment or the Planning Commission, as the case may be.]

6 SECTION 22: Subsection 19A.14.100(C)(8) of the Zoning Code of the City of Las Vegas is
7 hereby amended to read as follows:

8 8. All other off-premise signs shall be no higher than 40 feet from grade at the point of
9 construction, except that an off-premise sign within 60 feet of the right-of-way line of the street to
10 which it is oriented which, at a height of 40 feet, will have a significant portion of its display surface
11 obscured from view from the travel lanes of the street may be increased to a maximum of 55 feet when
12 authorized by the City Council, [after review by the Board of Zoning Adjustment or the Planning
13 Commission, as the case may be.]

14 SECTION 23: Subsection 19A.18.010(D)(3) of the Zoning Code of the City of Las Vegas is
15 hereby amended to read as follows:

16 3. **Timing.** The applicant shall post the required number of notification signs on the
17 property at least 10 days before the date of the first scheduled public hearing. [before the Planning
18 Commission or Board of Zoning Adjustment.]

19 SECTION 24: Subsection 19A.18.010(D)(6) of the Zoning Code of the City of Las Vegas is
20 hereby amended to read as follows:

21 6. **Failure to Comply.** If it is determined that the applicant has failed to comply with the
22 provisions of this section and that adequate notice has not been provided, the Planning Commission,
23 [Board of Zoning Adjustment] hearing officer or City Council shall hold the application in abeyance
24 or deny the application.

25 SECTION 25: Section 19A.18.070(B) of the Zoning Code of the City of Las Vegas is hereby
26 amended to read as follows:

27 **B. Scope and Limitations**

28 Pursuant to NRS Chapter 278 and this subchapter, the [Board of Zoning Adjustment] Planning

1 Commission, a hearing officer who has been appointed for that purpose and the City Council have the
2 authority to act upon Variance applications as set forth in this subchapter and as they deem
3 appropriate. Where a Variance application is proposed in connection with another application to be
4 heard by the Planning Commission, including an application for Special Use Permit, an application
5 for Rezoning, or an application for Site Development Plan Review, the Variance application shall be
6 considered by the Planning Commission, as a separate application, in conjunction with the associated
7 application. Other Variance applications shall be heard by the Planning Commission or by a hearing
8 officer, according to the type of application as classified by the Director. [However, a] A Variance
9 may not be granted in order to:

- 10 1. Permit a use in a zoning district in which the use is not allowed;
- 11 2. Vary any minimum spacing requirement between uses;
- 12 3. Relieve a hardship which is solely personal, self-created or financial in nature.

13 SECTION 26: Section 19A.18.070(C) of the Zoning Code of the City of Las Vegas is hereby
14 amended to read as follows:

15 **C. Application**

16 A pre-application conference shall be required prior to the submittal of any application for a
17 Variance. An application for a Variance shall be made [to the Board of Zoning Adjustment] on a form
18 provided by the Department of Planning and Development. This application shall be filed [with the
19 Secretary of the Board of Zoning Adjustment] at the office of the Department of Planning and
20 Development. The application shall be signed, notarized and acknowledged by the owner of record
21 of the property for which the Variance is sought; provided however, that:

22 1. **Other Governmental Ownership.** With respect to property which is owned by the
23 State of Nevada or the United States of America, a Variance application is sufficient if it is signed and
24 acknowledged by a prospective purchaser of that property who has entered into a contract with the
25 governmental entity to obtain ownership of the property;

26 2. **Non-Owner Applicant.** A Variance application is sufficient if it is signed and
27 acknowledged by a lessee, a contract purchaser or an optionee of the property for which a Variance
28 is sought. However, interest in that property must exist in a written agreement with the owner of

1 record attached to which is a copy of the Variance application and in which the owner of record has
2 authorized the lessee, contract purchaser or optionee to sign the application. The agreement must
3 further stipulate that the owner of record consents to the filing and processing of the application and
4 agrees to honor and be bound by the requested Variance if it is approved and by any conditions of
5 approval attached thereto.

6 SECTION 27: Subsection 19A.18.070(D)(3) of the Zoning Code of the City of Las Vegas is
7 hereby amended to read as follows:

8 **3. Withdrawn Without Prejudice.** The time periods that are described in Subsection
9 1 and 2 above, and that otherwise would become effective because of the withdrawal of an application,
10 shall not become effective if, after consideration of the timing and circumstances of the withdrawal,
11 the [Board of Zoning Adjustment] Planning Commission, a hearing officer or the City Council
12 specifically approves the withdrawal without prejudice.

13 SECTION 28: Section 19A.18.070(E) of the Zoning Code of the City of Las Vegas is hereby
14 amended to read as follows:

15 **E. Request for Abeyance**

16 An applicant who wishes to have an application held in abeyance following the notice and
17 posting [of the agenda of the Board of Zoning Adjustment] of a hearing before the Planning
18 Commission, a hearing officer or the City Council shall state good cause for the request. Good cause
19 shall be more than mere inconvenience to the applicant or lack of preparation.

20 SECTION 29: Section 19A.18.070(G) of the Zoning Code of the City of Las Vegas is hereby
21 amended to read as follows:

22 **G. [Board of Zoning Adjustment] Public Hearing and Action**

23 **1. Hearing.** [The Board of Zoning Adjustment] The Planning Commission or hearing
24 officer, as the case may be, shall hold a public hearing upon each application for a Variance within
25 65 days after the application is properly filed.

26 **2. Notice.**

27 **a. Notice Provided.** Notice of the time, place and purpose of the hearing must
28 be given at least 10 days before the hearing by:

- 1 1) Publishing the notice in a newspaper of general circulation within the
2 City; and 2) Mailing a copy of the notice to:
3 a) The applicant;
4 b) Each owner of real property located within a minimum of 500
5 feet of the property described in the application;
6 c) Each tenant of any mobile home park that is located within 300
7 feet of the property described in the application;
8 d) Each owner of at least 30 parcels nearest to the property
9 described in the application to the extent this notice does not duplicate the notice otherwise required
10 by this section; [and]
11 e) Any advisory board which has been established for the affected
12 area by the City Council[.] ; and
13 f) The president or head of any registered local neighborhood
14 organization whose organization boundaries are located within a minimum of one mile of the property
15 described in the application.

16 **b. Names Provided.** The Department of Planning and Development shall
17 provide, at the request of the applicant, the name, address and phone number of any person notified
18 pursuant to subparagraph (f) above.

19 **c. Additional Notice.** The [Secretary of the Board of Zoning Adjustment]
20 Department may give additional notice of the hearing by expanding the area of notification or using
21 other means of notification or both. The [Secretary] Department shall endeavor to provide any
22 additional notice at least 10 days before the date of the hearing.

23 **3. Hearing.** The [Board of Zoning Adjustment] Planning Commission or hearing officer,
24 as the case may be, shall conduct a public hearing on the application. [In its] As a matter of discretion
25 and for good cause, the [Board of Zoning Adjustment] Planning Commission or hearing officer may
26 hold the application in abeyance for further study. Following the hearing or hearings, the [Board of
27 Zoning Adjustment] Planning Commission or hearing officer shall make [its] a decision to approve,
28 approve with conditions, or deny the Variance application. The decision shall be based upon evidence

1 that makes the grant or denial of the Variance appropriate. The decision shall either be a final decision
2 or a recommendation, as determined in accordance with Section 19A.18.070(J).

3 **4. Conditions of Approval Recommendation.** In recommending the approval of a
4 Variance, the [Board of Zoning Adjustment] Planning Commission or hearing officer may impose any
5 conditions, restrictions or limitations as [the Board may determine to be] deemed necessary to meet
6 the general purpose and intent of this Title and to ensure that the public health, safety and welfare are
7 being maintained.

8 **5. Notice of [Board of Zoning Adjustment] Decision.** The [Board of Zoning
9 Adjustment] Planning Commission or hearing officer shall provide written notice of [its] each
10 decision[,] on a Variance application, which shall include the reasons for the decision and, if the
11 decision is to recommend approval of the Variance, any modifications, conditions or limitations that
12 the [Board may impose.] Planning Commission or hearing officer may recommend to be imposed in
13 connection with the approval. The notice shall be provided to the applicant, agent, or both.

14 SECTION 30: Section 19A.18.070(J) of the Zoning Code of the City of Las Vegas is hereby
15 amended to read as follows:

16 **J. Appeals**

17 **1. Appeal of Denial.** A decision of the [Board of Zoning Adjustment] Planning
18 Commission or hearing officer to deny a Variance application becomes final and effective at the
19 expiration of 10 days after the date of the decision [of the Board] unless, within that period, the
20 applicant appeals the decision by written request filed with the City Clerk.

21 **2. Final Action by City Council Concerning Approval.** A decision by the [Board of
22 Zoning Adjustment] Planning Commission or hearing officer to approve a Variance application
23 constitutes a recommendation to the City Council. The City Council shall make the final decision
24 concerning the application.

25 SECTION 31: Section 19A.18.070(K) of the Zoning Code of the City of Las Vegas is hereby
26 amended to read as follows:

27 **K. City Council Public Hearing and Action**

28 **1. Notice.** The City Council shall conduct a public hearing on any Variance application

1 which is appealed or forwarded to the Council for final action. At least ten days' written notice of the
2 hearing shall be sent to property owners who were sent notice of the public hearing conducted by the
3 [Board of Zoning Adjustment.] Planning Commission or hearing officer.

4 **2. Penalty.** If a structure which is the subject of a Variance application has been or is
5 being constructed without a building permit and is in violation of any of the provisions
6 of this Title, the City Council, in granting the Variance, may impose a penalty in an amount that does
7 not exceed 10 percent of the value of the structure as determined in accordance with the City's
8 Administrative Code.

9 **3. City Council Decision.** The City Council may review the Variance application de
10 novo, and has the authority to reverse, modify, or confirm any action of the [Board of Zoning
11 Adjustment.] Planning Commission or hearing officer. In making a decision to approve the proposed
12 Variance, the City Council shall consider the decision of the [Board of Zoning Adjustment] Planning
13 Commission or hearing officer and the evidence presented at the public hearing. Action by the City
14 Council is final.

15 **4. Notice of City Council Decision.** The City Council shall provide written notice of its
16 decision, which shall include the reasons for the decision and, if the decision is to
17 approve the Variance, any modifications, conditions or limitations that the Council may impose. The
18 notice shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with
19 the City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed
20 with the City Clerk.

21 SECTION 32: Section 19A.18.070(L) of the Zoning Code of the City of Las Vegas is hereby
22 amended to read as follows:

23 **L. Determinations**

24 **1.** In order to recommend approval of, or to approve a Variance application, the [Board
25 of Zoning Adjustment] Planning Commission, hearing officer or City Council must determine that
26 the variance is warranted both under State law and this subchapter. The minimum State law standards
27 are set forth in Subsection 2 below.

28 **2.** Where by reason of exceptional narrowness, shallowness, or shape of a specific piece

1 of property at the time of the enactment of the regulation, or by reason of exceptional topographic
2 conditions or other extraordinary and exceptional situation or condition of the piece of property, the
3 strict application of any zoning regulation would result in peculiar and exceptional practical
4 difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from
5 that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be
6 granted without substantial detriment to the public good, without substantial impairment of affected
7 natural resources and without substantially impairing the intent and purpose of any ordinance or
8 resolution.

9 SECTION 33: Subchapter 19A.18.080 of the Zoning Code of the City of Las Vegas is hereby
10 repealed in its entirety.

11 SECTION 34: Chapter 19A.18 of the Zoning Code of the City of Las Vegas is hereby
12 amended by adding thereto a new Subchapter 80, consisting of Sections (A) to (L), inclusive, reading
13 as follows:

14 **SUBCHAPTER 19A.18.080**

15 **A. Purpose**

16 The purpose of this subchapter is to establish a procedure (entitled an Administrative
17 Deviation) to allow for minor adjustments of specific requirements of the Zoning Code where, because
18 of special and unique conditions applicable to a specific lot or structure, the literal enforcement of the
19 requirements as applied to the lot or structure would result in an unnecessary hardship. The
20 Administrative Deviation procedure is available as an alternative to the Variance procedure, to be
21 pursued at the option of the applicant.

22 **B. Authority**

23 The Director of Planning and Development shall have the authority to grant an Administrative
24 Deviation, in accordance with the provisions of this Subchapter, to allow a minor deviation on
25 residential lots regarding the following:

- 26 1. Front, rear and side yard building setbacks (for single family lots only);
- 27 2. Block wall heights; and
- 28 3. Accessory structure heights.

1 **C. Eligibility to Apply**

2 1. No application for an Administrative Deviation regarding a building setback may be
3 submitted unless:

4 a. In the case of a required side or rear yard setback of ten feet or less, the
5 requested deviation will not exceed two feet, and construction within the reduced setback will not
6 extend more than 15 feet parallel to the property line from which the setback is measured;

7 b. In the case of a required side or rear yard setback of greater than ten feet or a
8 required front yard setback of greater than ten feet (exclusive of front-loading garages), the requested
9 deviation will not exceed 20%, and construction within the reduced setback will not extend more than
10 15 feet parallel to the property line from which the setback is measured;

11 c. The requested deviation is for a structure that will not exceed the greater of one
12 story or 15 feet in height; and

13 d. The applicant submits signatures representing ownership of all abutting
14 properties indicating no objection to the requested deviation.

15 2. No application for an Administrative Deviation regarding a block wall may be
16 submitted unless:

17 a. For a rear or side yard, the wall will not exceed eight feet in height;

18 b. For a front yard, the wall will not exceed six feet in height, with the top four
19 feet open; and

20 c. The applicant submits signatures representing ownership of all abutting
21 properties indicating no objection to the requested deviation.

22 3. No application for an Administrative Deviation may be submitted regarding the height
23 of an accessory structure unless:

24 a. The requested height does not exceed 1.2 times the height of the main dwelling
25 and does not exceed the allowable building height for the zoning district in which the property is
26 located; and

27 b. The applicant submits signatures representing the ownership of all abutting
28 properties indicating no objection to the requested deviation, or the ownership of all properties within

1 100 feet of the subject property, whichever would require the most signatures.

2 4. For purposes of this Section (C), the term "abutting" means sharing any property line
3 with the parcel for which the deviation is sought, or which would share a property line but for an
4 intervening right-of way. In the case of deviations for setbacks or block walls, the Director shall have
5 the authority to waive the signature requirement regarding properties which are deemed not to be
6 adversely affected.

7 **D. Application**

8 1. An application for an Administrative Deviation shall be made to the Director on a form
9 provided by the Department of Planning and Development. The application shall be filed with the
10 office of the Department of Planning and Development.

11 2. The application shall be signed, notarized and acknowledged by the record owner of
12 the property for which the Administrative Deviation is sought.

13 **E. Decision**

14 Within 30 days after a complete application for Administrative Deviation has been filed and
15 accepted, the Director shall make a decision to approve, approve with conditions or deny the
16 application.

17 **F. Administrative Deviation Determinations**

18 In order to approve an Administrative Deviation, the Director must determine that:

19 1. The request does not exceed the prescribed limitations of Section (C);

20 2. Granting the Administrative Deviation will not be inconsistent with the spirit and intent
21 of the General Plan;

22 3. The request is not intended to be combined with a previous or future Variance request
23 in order to achieve a deviation that would not likely be granted by means of Variance alone; and

24 4. That one or more of the following conditions exist:

25 a. There are special circumstances applicable to the property, such as size, shape,
26 topography, location or surroundings and that the strict application of the Code requirement deprives
27 the property of privileges enjoyed by other property in the vicinity and under the identical land use
28 district classification;

1 b. Granting the Administrative Deviation is necessary for the preservation and
2 enjoyment of a substantial property right possessed by other property owners in the same vicinity and
3 land use district and is denied to the property for which the Administrative Deviation is sought;

4 c. The Administrative Deviation will not be materially detrimental to the public
5 health, safety, or general welfare, or injurious to the property or improvements in the vicinity and land
6 use district in which the property is located; or

7 d. Granting the Administrative Deviation does not constitute a special privilege
8 inconsistent with the limitations upon other properties in the vicinity and land use district in which
9 the property is located.

10 **G. Conditions**

11 In connection with the approval of an Administrative Deviation, the Director may impose any
12 conditions, restrictions or limitations as the Director determines to be necessary to meet the general
13 purpose and intent of this Title and to ensure that the public health, safety and general welfare are
14 being maintained.

15 **H. Notice of Decision**

16 The Director shall provide written notice of his or her decision, which shall include the reasons
17 for the decision and, if the decision is to approve the Administrative Deviation, any modifications,
18 conditions or limitations that the Director may impose. The notice shall be provided to the owner or
19 the owner's agent.

20 **I. Precedents**

21 The fact that an Administrative Deviation for the same or similar use has been granted
22 previously for the subject property or nearby property is a factor to be considered, but is not
23 determinative.

24 **J. Burden of Proof**

25 The applicant bears the burden of proof to establish that the approval of an Administrative
26 Deviation is warranted.

27 **K. Premature Use of Property**

28 The issuance of a building permit or business license for a development or structure that cannot

1 be permitted without an Administrative Deviation, before an Administrative Deviation is approved,
2 does not replace or otherwise affect the Administrative Deviation requirement.

3 **L. Revocation**

4 1. **Notice.** The Director may hold a hearing to revoke or modify an Administrative
5 Deviation. At least 10 days prior to any hearing, written notice of the hearing shall be delivered to the
6 owner or developer, or both. Notice may be delivered in person or certified mail, return receipt
7 requested, mailed to the address shown in the records of the Clark County Assessor.

8 2. **Grounds.** An Administrative Deviation may be revoked or modified for cause,
9 including a finding of one or more of the following:

- 10 a. That the Administrative Deviation was obtained by misrepresentation or fraud;
11 b. That the development or structure is not in compliance with one or more of the
12 conditions of approval;
13 c. That the development or structure permitted by the Administrative Deviation
14 is in violation of any statute, ordinance, law or regulation.

15 3. **Notice of Decision.** Written notice of the decision shall be provided to the owner,
16 developer or agent. A copy of the notice shall also be filed with the City Clerk, and the date of the
17 notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

18 SECTION 35: Section 19A.18.100(B) of the Zoning Code of the City of Las Vegas is hereby
19 amended to read as follows:

20 **B. Authority**

21 1. The Director of the Department of Planning and Development shall have the authority
22 to approve, approve with conditions, or deny a Temporary Commercial Permit.

23 2. The Director may at any time refer an application for a Temporary Commercial Permit
24 to [the Board of Zoning Adjustment.] a hearing officer for decision.

25 SECTION 36: Section 19A.18.100(E) of the Zoning Code of the City of Las Vegas is hereby
26 amended to read as follows:

27 **E. Appeal**

28 The applicant may appeal a decision of the Director to [the Board of Zoning Adjustment] a

1 hearing officer by filing a written request with the Department of Planning and Development. Any
2 appeal pursuant to this section must be filed within 10 days after the date of the decision that is the
3 subject of the appeal. The decision of the [Board of Zoning Adjustment] hearing officer is final[.],
4 unless appealed to the City Council as in the case of a Variance.

5 SECTION 37: Section 19A.18.100(F) of the Zoning Code of the City of Las Vegas is hereby
6 amended to read as follows:

7 **F. Conditions of Approval**

8 In approving a Temporary Commercial Permit, the Director (or, upon appeal, [the Board of
9 Zoning Adjustment] a hearing officer) may impose conditions, stipulations or limitations as are
10 deemed necessary to ensure that the activity will be consistent with Section (D) of this subchapter.
11 Such conditions may include, but are not limited to the following:

- 12 1. Provision for temporary parking facilities, including vehicle ingress and egress;
- 13 2. Measures to prevent or reduce nuisance factors such as glare, excessive illumination,
14 noise, vibration, smoke, dust, dirt, odors, gases and heat;
- 15 3. Regulation of placement, height, size and location of structures, facilities, landscaping
16 and equipment, including provision for buffering and separation;
- 17 4. Provision for sanitary facilities and for waste collection and disposal;
- 18 5. Measures to promote safety and security;
- 19 6. Regulation of signs and other attention-gaining devices;
- 20 7. Regulation of operating hours and duration of the temporary commercial use;
- 21 8. Compliance with applicable provisions of the Las Vegas Municipal Code;
- 22 9. Any other conditions which will ensure the operation of the proposed temporary use
23 is conducted in an orderly, efficient manner and in accordance with the intent and purpose of this
24 subchapter.

25 SECTION 38: Section 19A.18.110(C) of the Zoning Code of the City of Las Vegas is hereby
26 amended to read as follows:

27 **C. Authority**

28 The Director of [the Department of Planning and Development, subject to appeal to the Board

1 of Zoning Adjustment,] Planning and Development or, upon appeal, a hearing officer, shall have the
2 authority to approve, approve with conditions, or deny a Home Occupation Permit. In approving a
3 Home Occupation application, the Director (or if applicable, [the Board of Zoning Adjustment] a
4 hearing officer) may impose conditions, stipulations or restrictions as are deemed necessary to ensure
5 that the activity will be consistent with the intent of this subchapter.

6 SECTION 39: Subsection 19A.18.110(G)(1) of the Zoning Code of the City of Las Vegas is
7 hereby amended to read as follows:

8 1. In order to approve a Home Occupation Permit, the Director (or if appealed, [the Board
9 of Zoning Adjustment] a hearing officer) must be satisfied that the proposed Home Occupation can
10 and will comply with the following operational standards:

11 a. Only the occupants of the dwelling unit shall be engaged in the business activity
12 approved for the Home Occupation Permit;

13 b. No employees shall report to work or be dispatched from the property;

14 c. There shall be no transacting of business or offers to transact business with
15 customers or clients who have come to the property;

16 d. There shall be no signage or other advertising of any kind, whether on the
17 property or elsewhere, which advertises the address or physical location of the property or identifies
18 the existence of a Home Occupation on the property. A home telephone number or a post office box
19 may be advertised by any medium other than on-site signage;

20 e. No motor vehicle repair, paint or body work; commercial preparation of food
21 for service on the premises; business related to or involving explosives, ammunitions or weapons;
22 beauty parlor or barber shop; or ambulance or related emergency services shall be permitted as a
23 Home Occupation;

24 f. A Home Occupation shall not create pedestrian, automobile or truck traffic in
25 excess of the normal amount associated with residential uses in the district;

26 g. A Home Occupation shall be conducted exclusively within the main dwelling
27 or within an accessory structure which has been approved for the Home Occupation Permit, except
28 for horticultural activities;

1 h. No more than one vehicle, with a maximum capacity of one-ton, shall be used
2 in connection with a Home Occupation Permit;

3 i. The number of on-site parking spaces shall not be reduced to less than two;

4 j. There shall be no outdoor storage or use of any toxic chemicals or hazardous
5 materials of any type or in any amount not normally found in a residential structure;

6 k. There shall be no electrical or mechanical equipment which is not normally
7 found in a residential structure, and no equipment found on the premises shall cause a change in the
8 fire safety or occupancy classification of the dwelling unit; and

9 l. No Home Occupation shall create or cause noise, dust, light, vibration, gas,
10 fumes, toxic/hazardous materials, smoke, glare, electrical interference or other hazards or nuisances.

11 SECTION 40: Section 19A.18.110(H) of the Zoning Code of the City of Las Vegas is hereby
12 amended to read as follows:

13 **H. Appeal of Director's Action**

14 If the applicant is aggrieved by the Director's decision, or any conditions attached
15 thereto, the applicant may appeal the decision to [the Board of Zoning Adjustment] a hearing officer
16 by written request within 10 days after the date of decision by the Director. The appeal must be filed
17 in the Department of Planning and Development. [Within 30 days after receipt of the written appeal,
18 the Director shall schedule the appeal onto the next available Board of Zoning Adjustment agenda.
19 The Board of Zoning Adjustment] The appeal hearing shall be scheduled as soon as is reasonably
20 possible, and appropriate notice of the hearing shall be provided. The hearing officer may affirm,
21 reverse or modify the Director's decision. Notice of the [Board's] hearing officer's decision shall be
22 provided to the applicant or the applicant's agent, and the date of the notice shall be deemed to be the
23 date notice of the decision is filed with the City Clerk.

24 SECTION 41: Section 19A.18.110(I) of the Zoning Code of the City of Las Vegas is hereby
25 amended to read as follows:

26 **I. Optional Treatment of Appeal**

27 The Director[, or the Board of Zoning Adjustment by majority vote,] or hearing officer may
28 require that an appeal filed pursuant to Section (H) be heard as a public hearing item. The requirement

1 for a public hearing must be based upon a determination that, in the instance of that particular
2 application, the public interest will best be served by providing notice and an opportunity to be heard
3 to surrounding property owners. In such event, the Director [of the Department of Planning and
4 Development] shall process the application in accordance with the standards and procedures for
5 Special Use Permit applications.

6 SECTION 42: Section 19A.18.110(L) of the Zoning Code of the City of Las Vegas is hereby
7 amended to read as follows:

8 **L. Revocation or Modification**

9 1. **Notice and Hearing.** Upon proper notice to, and an opportunity to be heard by, the
10 permit holder, the Director may revoke or modify a Home Occupation permit if the Director
11 determines one or more of the following:

12 a. That the Home Occupation is not in compliance with one or more of the
13 Operational Standards of this subchapter;

14 b. That the Home Occupation Permit was obtained by misrepresentation or fraud;

15 c. That the Home Occupation is being conducted in violation of any statute,
16 ordinance, law or regulation[;].

17 2. **Appeal and Notice of Decision.** The Director's decision may be appealed in the same
18 manner as the initial denial of a Home Occupation Permit, in accordance with Section (H). The
19 provisions of Section (I) shall not apply to the appeal, except that the Director and the [Board of
20 Zoning Adjustment] hearing officer may provide notice and opportunity to be heard to surrounding
21 property owners.

22 SECTION 43: Section 19A.20.020 of the Zoning Code of the City of Las Vegas is hereby
23 amended by deleting the term "Board" and its corresponding definition.

24 SECTION 44: Section 19A.20.020 of the Zoning Code of the City of Las Vegas is hereby
25 amended by amending the respective definitions of the terms "Review Authority" and "Standard
26 Conditions" to read as follows:

27 **Review Authority**

28 The authority responsible for the review and final action on an application filed under this

1 Title, such as the City Council, Planning Commission, [Board of Zoning Adjustment] a hearing officer
2 or the Director.

3 **Standard Conditions**

4 Conditions which have been approved by the Planning Commission, [Board of Zoning
5 Adjustment or] a hearing officer or the City Council and which are designed to be imposed as a matter
6 of course, where applicable, on the approval of development applications.

7 SECTION 45: Section 19A.20.020 of the Zoning Code of the City of Las Vegas is hereby
8 amended by adding thereto the following term, along with its corresponding definition:

9 **Hearing Officer**

10 A person appointed by the City Council pursuant to LVMC Chapter 2.22 to hear appeals and
11 other applications under this Title. The term refers to the "hearing examiner" authorized under NRS
12 278.262 to 278.265, inclusive.

13 SECTION 46: Following the adoption of this Ordinance, in the event of conflict, disagreement
14 or uncertainty regarding the processing of appeals and other items previously heard by the Board of
15 Zoning Adjustment, the Director, in his discretion, may apply the procedures, rules and practices
16 formerly applicable to proceedings before the Board of Zoning Adjustment in order to accomplish the
17 purposes of this Title.

18 SECTION 47: This Ordinance shall become effective on _____. Except as
19 otherwise determined by the Director in his sole discretion:

20 (A) Applications which were filed on or after _____ shall be processed
21 in accordance with this Ordinance.

22 (B) Applications which were pending or on file before that date shall be processed in
23 accordance with the provisions in effective prior to the adoption of this Ordinance.

24 SECTION 48: If any section, subsection, subdivision, paragraph, sentence, clause or phrase
25 in this ordinance or any part thereof, is for any reason held to be unconstitutional, or invalid or
26 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
27 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
28 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,

1 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
2 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
3 invalid or ineffective.

4 SECTION 49: All ordinances or parts of ordinances or sections, subsections, phrases,
5 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
6 1983 Edition, in conflict herewith are hereby repealed.

7 PASSED, ADOPTED and APPROVED this ____ day of _____, 2000.

8 APPROVED:

9
10 By _____
OSCAR B. GOODMAN, Mayor

11 ATTEST:

12 _____
13 BARBARA JO RONEMUS, City Clerk

14 APPROVED AS TO FORM:

15
16 _____ Date
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1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2000, 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 _____, 2000, 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 APPROVED:

12
13 By _____
OSCAR B. GOODMAN, Mayor

14 ATTEST:
15
16 BARBARA JO RONEMUS, City Clerk

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BILL NO. 2000-12

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE LAS VEGAS MUNICIPAL CODE TO ESTABLISH NEW PROCEDURES FOR HEARING CERTAIN APPEALS, VARIANCE APPLICATIONS AND SIMILAR MATTERS AS A REPLACEMENT FOR THE BOARD OF ZONING ADJUSTMENT, TO REPEAL CODE AND ORDINANCE PROVISIONS PERTAINING TO THE BOARD, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by:
Willard Tim Chow, Director
Planning and Development

Summary: Establishes new procedures for hearing certain appeals, variance applications and similar matters under the Municipal Code as a replacement for the Board of Zoning Adjustment.

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

SECTION 1: Section 5 of Ordinance No. 5193 of the City of Las Vegas, and Title 2, Chapter 45, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby repealed in their entirety.

SECTION 2: Whenever, pursuant to a provision of the Las Vegas Municipal Code, an appeal or application is to be heard by the Board of Zoning Adjustment, the appeal or application shall be heard or considered by the Director, the Planning Commission, the City Council, or a hearing examiner provided by the City in accordance with NRS 278.262 to 278.265, inclusive. To the extent possible, all rules and procedures that, under State law or the Municipal Code, are made applicable to those appeals and applications shall apply to the proceedings before the Director, Planning Commission, City Council or hearing examiner. In the case of a decision by the Director, the Planning Commission or a hearing examiner, the decision shall be final action, subject to a right of appeal to the City Council to the same extent as if the decision had been made by the Board of Zoning Adjustment.

SECTION 3: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof, is for any reason held to be unconstitutional, or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the

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

5 SECTION 4: All ordinances or parts of ordinances or sections, subsections, phrases,
6 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
7 1983 Edition, in conflict herewith are hereby repealed.

8 PASSED, ADOPTED and APPROVED this _____ day of _____, 2000.

9 APPROVED:

10 By _____
11 OSCAR B. GOODMAN, Mayor

12 ATTEST:

13 _____
14 BARBARA JO RONEMUS, City Clerk

15 APPROVED AS TO FORM:

16 Val Steel 2-1-2000
17 Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2000, 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 _____, 2000, 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 APPROVED:

12
13 By _____
OSCAR B. GOODMAN, Mayor

14 ATTEST:

15 _____
16 BARBARA JO RONEMUS, City Clerk
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AFFP DISTRICT COURT
Clark County, Nevada

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

Barbara Linford, being 1st duly sworn, deposes and says:

That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

LV CITY CLERK
1140454

2296311LV

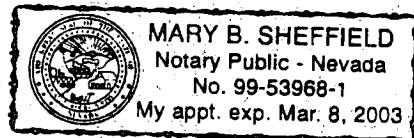
was continuously published in said Las Vegas Review Journal and/or Las Vegas Sun in 1 edition(s) of said newspaper issued from 03/03/00 to 03/03/2000, on the following days: MARCH 3, 2000

Signed: Barbara Linford

SUBSCRIBED AND SWORN BEFORE ME THIS THE 3

day of March 2000

Mary B. Sheffield
Notary Public



BILL NO. 2000-12
SECOND AMENDMENT

AN ORDINANCE TO AMEND THE LAS VEGAS MUNICIPAL CODE TO ESTABLISH NEW PROCEDURES FOR HEARING CERTAIN APPEALS, VARIANCE APPLICATIONS AND SIMILAR MATTERS AS A REPLACEMENT FOR THE BOARD OF ZONING ADJUSTMENT, TO REPEAL CODE AND ORDINANCE PROVISIONS PERTAINING TO THE BOARD, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Willard Tim Chow,
Director Planning and Development
Summary: Establishes new procedures for hearing certain appeals, variance applications and similar matters under the Municipal Code as a replacement for the Board of Zoning Adjustment.

At a City Council meeting
FEBRUARY 2, 2000
BILL NO. 2000-12 WAS READ BY
TITLE AND REFERRED TO RECOMMENDING COMMITTEE.
Councilmen Weekly and Mack

COPIES OF THE COMPLETE BILL
ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF
THE CITY CLERK, 1ST FLOOR,
CITY HALL, 400 EAST STEWART
AVENUE, LAS VEGAS, NEVADA.
PUB: March 3, 2000
Las Vegas Review-Journal

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AFFP DISTRICT COURT
Clark County, Nevada

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

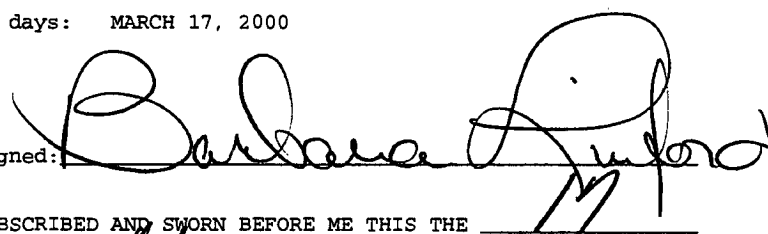
Barbara Linford, being 1st duly sworn, deposes and says:

That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

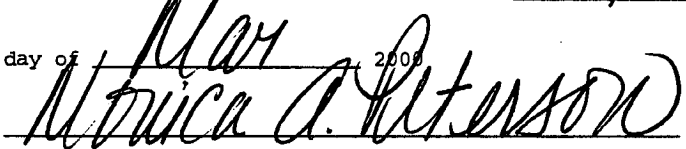
LV CITY CLERK
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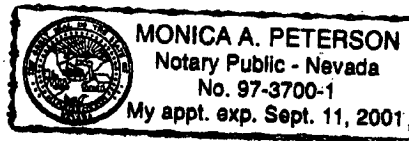
was continuously published in said Las Vegas Review Journal and/or Las Vegas Sun in 1 edition(s) of said newspaper issued from 03/17/00 to 03/17/2000, on the following days: MARCH 17, 2000

Signed: 

SUBSCRIBED AND SWORN BEFORE ME THIS THE

day of  2000

Notary Public



SECOND AMENDMENT
BILL NO. 2000-12
ORDINANCE NO. 5204

AN ORDINANCE TO AMEND THE LAS VEGAS MUNICIPAL CODE TO ESTABLISH NEW PROCEDURES FOR HEARING CERTAIN APPEALS, VARIANCE APPLICATIONS AND SIMILAR MATTERS AS A REPLACEMENT FOR THE BOARD OF ZONING ADJUSTMENT, TO REPEAL CODE AND ORDINANCE PROVISIONS PERTAINING TO THE BOARD, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Willard Tim Chow, Director Planning and Development

Summary: Establishes new procedures for hearing certain appeals, variance applications and similar matters under the Municipal Code as a replacement for the Board of Zoning Adjustment.

The above and foregoing ordinance was first proposed and read by title to the City Council on the 2nd day of February, 2000, and referred to the following committee composed of Councilmen Weekly and Mack for recommendation; thereafter the said committee reported favorably on said ordinance on the 15TH day of March, 2000, which was a regular meeting of said City Council; and that at said regular meeting the proposed ordinance was read by title to the City Council as amended and adopted by the following vote:

VOTING "AYE" Mayor Goodman and Councilmembers M. McDonald, Reese, Brown, L. McDonald, Weekly and Mack
VOTING "NAY" NONE
EXCUSED: NONE

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 1ST FLOOR, 400 EAST STEWART AVENUE, LAS VEGAS, NEVADA.
PUB: March 17, 2000
Las Vegas Review-Journal

2000 MAR 22 A 10:51

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