

ORDINANCE NO. 871

AN ORDINANCE CREATING AN ADMINISTRATIVE PROCEDURE TO BE FOLLOWED BEFORE THE CITY COMMISSION; PROVIDING FOR SHOW CAUSE COMPLAINT; PROVIDING FOR INVESTIGATIONS; PROVIDING FOR REVOCATION AND SUSPENSION OF CITY BUSINESS LICENSES; PROVIDING OTHER MATTERS PROPERLY RELATED THERETO; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE BOARD OF COMMISSIONERS OF THE CITY OF LAS VEGAS DO ORDAIN AS FOLLOWS:

SECTION 1. INVESTIGATION OF VIOLATIONS; COMPLAINTS; SUSPENSION; REVOCATION OF LICENSES; WRITTEN DECISION AND ORDER.

1. Any department of the city having jurisdiction over a particular business shall investigate any apparent violations of this Code or any regulations adopted thereunder which come within its authority and, when action is to be taken against a licensee, shall conduct such investigative hearings with respect thereto as may be necessary. The City Commission may direct any department of the city to investigate any apparent violations of Code and regulations which come to its attention.

2. If, after such investigation the department is satisfied that a license should be suspended or revoked, it shall submit its recommendation by filing a complaint with the City Manager and transmit therewith a summary of evidence bearing on the matter and any transcript of testimony at any investigative hearing conducted by or on behalf of the department.

3. Upon receipt of the complaint of the department, the City Manager shall submit the same to the City Attorney who shall review the same and all matter presented in support thereof, and, if satisfied that probable grounds exist for disciplinary or other action, shall approve the complaint to show cause to the City Commission. If the Board of City Commissioners is not satisfied that probable grounds exist for revocation or other action, it may order the complaint withdrawn without prejudice to the filing of another complaint after further investigation and reconsideration by the department, or may authorize a complaint to show cause.

SECTION 2. DISCIPLINARY ACTION; COMPLAINT; HEARING; EMERGENCY ORDERS; DECISION; REHEARING.

1. The complaint referred to in Section 1 shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged. It shall specify the code sections and regulations which the respondent is alleged to have violated, but shall not consist merely of charges raised in the language of the code section or regulations. It shall require the licensee to appear and show cause why the license shall not be suspended or revoked, or other action taken.

2. The commission shall determine the time and place of the hearing as soon as is reasonably practical. The commission shall cause to be delivered or send by registered or certified mail a notice of hearing to all parties at least seven (7) days prior to the hearing. Unless respondent consents, the hearing shall not be prior to the expiration of the time within which the respondent is entitled to file a notice of defense.

3. The notice of hearing shall be substantially in the following form, but may include other information:

YOU ARE HEREBY NOTIFIED that a Show Cause Hearing will be held before the City Commission at (here insert place of hearing) on the

CITY  
CLERK'S  
FILE

day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_, \_\_\_\_\_ M., upon the charges made in the complaint served upon you. You may be present at the hearing and may be, but need not be, represented by counsel. You may present any relevant evidence, and you will be given full opportunity to cross-examine all witnesses testifying against you.

4. Upon authorization of the complaint, the Board of City Commissioners shall cause a copy of the complaint and notice of hearing to be served upon the respondent, either personally or by registered or certified mail, return receipt required, at his address on file with the Supervisor of Licenses.

5. The Commission shall include with the copy of the complaint and notice of hearing served upon respondent three copies of a form entitled "Notice of Defense" which, when completed and signed by or on behalf of the respondent and returned to the commission, will acknowledge service of the complaint and constitute a "Notice of Defense" under Subsection 7 hereof.

6. The notice of defense shall read substantially as follows:

#### NOTICE OF DEFENSE

INSTRUCTIONS TO RESPONDENT: Two copies of this form should be filed with the City Manager within five (5) days after service upon you of the enclosed complaint. The form must be signed by you or on your behalf. You will note that blanks are provided for any information you wish to supply.

|                                                       | Yes   | No    |
|-------------------------------------------------------|-------|-------|
| 1. Do you request a hearing?                          | _____ | _____ |
| 2. Do you admit the facts stated in<br>the Complaint? | _____ | _____ |

If you admit some of the facts stated in the Complaint, but deny others, please specify:

(Space for answer)

3. Are there any defenses or explanations which you believe the Commission should consider?

If so, please specify:

(Space for answer)

7. Within five (5) days after service of the complaint, the respondent must file with the commission a notice of defense in

which he may:

- (a) Request a hearing;
- (b) Admit the accusation in whole or in part;
- (c) Present new matter or explanations by way of defense;  
and
- (d) State any legal objections to the complaint.

8. The respondent shall be entitled to a hearing on the merits.

9. (a) Oral evidence shall be taken only upon oath or affirmation administered by the Mayor, City Clerk, or any Commissioner.

(b) Every party to a hearing shall have the right:

- (1) To call and examine witnesses;
- (2) To introduce exhibits relevant to the issues of the case;
- (3) To cross-examine opposing witnesses on any matters relevant to the issues of the case, even though the matter was not covered in direct examination;
- (4) To impeach any witness regardless of which party first called said witness to testify;  
and
- (5) To offer rebuttal evidence.

(c) If the respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.

(d) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action.

(e) The parties or their counsel may by stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection.

10. The City Clerk shall have the power to issue subpoenas for witnesses to appear to give testimony.

11. The Board of City Commissioners may take official notice of any generally accepted information or technical or scientific matter, and of any other fact which may be judicially noticed by the courts of this state. The parties shall be informed of any information, matters or facts so noticed, and shall be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the Commission.

12. Failure of a respondent to appear at the hearing shall constitute an admission of all matters and facts contained in the complaint filed with respect to such respondent. In such cases the commission may take action based upon such admission or upon any other evidence, including affidavits, and without any further notices whatever to respondent. In such cases the Board of City Commissioners shall indicate by appropriate motions or orders in the minute record the evidence upon which its action was based.

13. After the hearing of a contested matter, the commission shall render a decision on the merits which shall include a determination of the issues presented and the penalty to be imposed, if any; and shall thereafter make and enter its order in its minutes in conformity to such decision. No member of the commission who did not hear the evidence shall vote on the decision. The affirmative votes of a majority of the Board of Commissioners shall be required to suspend, revoke, or take other action on any license. The decision of the Board of Commissioners shall be served on the parties personally or shall be sent to them by registered or certified mail. The decision shall become and remain effective upon such service, unless the commission shall otherwise order.

14. The commission may, upon motion made within ten (10) days after service of a decision and order, order a rehearing before the commission upon such terms and conditions as it may deem just and proper if a petition for judicial review of the decision and order has not been filed. Such motion shall not be granted except upon a showing that there is new evidence which is material and necessary and reasonably calculated to change the decision of the commission, and that sufficient reason existed for failure to present such evidence at the hearing of the commission. The motion shall be supported by an affidavit of the moving party or his counsel showing with particularity the materiality and necessity of the new evidence and the reason why it was not introduced at the hearing. Upon rehearing, rebuttal evidence to the additional evidence shall be permitted. After rehearing, the commission may modify its decision and order as the additional evidence may warrant.

SECTION 3. This ordinance shall not be construed to alter, change, supersede or repeal the right of the City of Las Vegas to suspend or revoke any liquor license as provided for in Title V, Chapter 18, Section 13, nor any gaming license as provided in Title V, Chapter 17, Section 10, nor the right of the Supervisor of Licenses to suspend or revoke a business license for non-payment of fees as provided in Title II, Chapter 7, Section 9.

SECTION 4. All ordinances or parts of ordinances, chapters, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1960, in conflict herewith are hereby repealed.

SECTION 5. Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500.00, or by imprisonment in the City Jail for not more than six months, or by both such fine and imprisonment.

ATTEST:

Edwina M. Cole  
EDWINA M. COLE, City Clerk

Oran K. Gragson  
ORAN K. GRAGSON, Mayor

The above and foregoing ordinance was first proposed and read by title to the Board of Commissioners on the 3rd day of August, 1960, and referred to the following committee composed of Commissioners Whipple and Fountain for recommendation; thereafter the said committee reported favorably on said ordinance on the 5th day of October, 1960, which was a regular meeting of said Board; that at said regular meeting the proposed Ordinance was read by title to the Board of Commissioners as first introduced and adopted by the following vote:

VOTING "AYE": Commissioners Elwell, Sharp, Whipple and Mayor Gragson

VOTING "NAY": Commissioners None ABSENT: Fountain

ATTEST:

Edwina M. Cole  
EDWINA M. COLE, City Clerk

APPROVED:

Oran K. Gragson  
ORAN K. GRAGSON, Mayor

## AFFIDAVIT OF PUBLICATION

STATE OF NEVADA, }  
COUNTY OF CLARK } ss.

.....**Charles M. Blair**....., being first duly sworn,

deposes and says: That he is.....**Foreman**.....of the  
LAS VEGAS MORNING SUN, a daily newspaper of general circulation, printed and  
published at Las Vegas, in the County of Clark, State of Nevada, and that the  
attached was continuously published in said newspaper for a period of

**Two Weeks**

from **Oct 7** to **Oct 14**

inclusive, being the issues of said newspaper for the following dates, to-wit:

**Oct 7 and 14, 1960**

That said newspaper was regularly issued and circulated on each of the dates  
above named.

Signed.....

*Charles M. Blair*

Subscribed and sworn to before me this **14<sup>th</sup>**  
day of **Oct, 1960**

*Barney J. Jensen*

Notary Public in and for Clark County, Nevada.

My Commission Expires

My Commission Expires **Mar. 17, 1964**

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**Yes No**

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**SECTION 4.** All ordinances or parts of ordinances, chapters, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1960, in conflict herewith are hereby repealed.

**SECTION 5.** Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500.00, or by imprisonment in the City Jail for not more than six months, or by both such fine and imprisonment.

s/ ORAN K. GRAGSON,  
Mayor

ATTEST:

s/ EDWINA M. COLE,

City Clerk

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VOTING "AYE": Commissioners Whipple, Sharp, Elwell and Mayor Gragson.

VOTING "NAY": Commissioners None.

ABSENT: Commissioner Fountain.

APPROVED:

s/ ORAN K. GRAGSON,

Mayor

ATTEST:

s/ EDWINA M. COLE,

City Clerk

OCT. 7, 14, 1960