

1 **Bill No. 95-70**

2 **Ordinance No. 3938**

3 AN ORDINANCE RELATING TO UNLAWFULLY DIRECTING ANOTHER WITH THE
4 INTENT TO AID AND ABET UNLAWFUL POSSESSION OR DISTRIBUTION OF A
5 CONTROLLED SUBSTANCE; AMENDING TITLE 10, CHAPTER 73 OF THE MUNICIPAL
6 CODE OF THE CITY OF LAS VEGAS, NEVADA, 1983 EDITION; PROVIDING FOR THE
7 ADDITIONAL MISDEMEANOR OFFENSE OF SOLICITING THE UNLAWFUL POSSESSION
8 OF A CONTROLLED SUBSTANCE; PROVIDING ENHANCED PENALTIES FOR A FIRST,
9 SECOND AND THIRD OFFENSE IDENTIFIED IN TITLE 10, CHAPTER 73, AS AMENDED
10 HEREIN; PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO; AND
11 REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT
12 HERewith.

13 Sponsored by:

Summary: Amends Title 10, Chapter 73 of the
Municipal Code of the City of Las Vegas, Nevada,
1983 Edition, prohibiting the solicitation of a
controlled substance and increasing the penalties for
directing another with the intent to aid and abet
unlawful possession or distribution of a controlled
substance.

14 Councilman Gary Reese

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

17 SECTION 1: Title 10, Chapter 73, of the Municipal Code of the City of Las Vegas,
18 Nevada, 1983 Edition, is hereby amended to read as follows:

19 10.73.010 Unlawfully directing another with the intent to aid and
20 abet the unlawful possession or distribution of controlled
21 substances.

22 (A) Unless a greater penalty is provided for by the Nevada Revised Statutes, it is a
23 misdemeanor for any person, by word, gesture or other conduct to guide, lead, steer or otherwise
24 direct another with the specific intent to aid and abet the unlawful possession or distribution of
25 controlled substances in any public place or place open to the public, including (but not limited to)
26 alleyways, street, sidewalks, parks, plazas and squares.

(B) It is not a defense to an alleged violation of this provision that the person intended
to be aided or abetted did not himself or herself intend to engage in the unlawful possession or
distribution of controlled substances.

1 10.73.015 Unless a greater penalty is provided for by the Nevada Revised Statutes, it is
2 a misdemeanor for any person to solicit another with the intent to obtain the unlawful possession of
3 a controlled substance. The term "solicit" as used in this subsection means to demand, implore,
4 request or otherwise seek of another - whether by words, gestures or other conduct.

5 10.73.020 Unlawful possession or distribution of controlled substances defined. The
6 term "unlawful possession or distribution of controlled substances" as used in this Chapter, refers to
7 any possession or distribution of controlled substances made unlawful by the Nevada State Uniform
8 Controlled Substances Act (NRS 453.011 to 453.348).

9 **10.73.030 Detention, arrest and conviction.**

10 (A) No person may be detained or arrested for a suspected violation of this Chapter
11 except by a peace officer who has special training and education in the enforcement of this Chapter,
12 including training regarding the ethnic and cultural diversity of areas and individuals in the
13 community, and either: (1) was certified within the previous year by the Sheriff of Clark County,
14 Nevada as possessing special training, education and experience in the field the enforcement of the
15 Nevada Uniform Controlled Substance Act referred to in NRS 453.011 (or similar uniform
16 controlled substances act of another jurisdiction) and/or who was at the time of the detention or
17 arrest specially assigned or detailed to an established "Street Crimes Unit" of the Las Vegas
18 Metropolitan Police Department (or its equivalent) or within the last three years had been so
19 assigned for a period in excess of six months; or (2) has had a minimum of five years of experience
20 in the enforcement of such Uniform Controlled Substance Act. Nor may any person be detained
21 for a suspected violation of this Chapter unless and until such officer has articulable facts upon
22 which (s)he can state reasonable suspicion that the individual to be detained has engaged or is
23 engaging in conduct which is prohibited in Section 10.73.010. Nothing in this provision is
24 intended to prohibit a law enforcement officer from lawfully approaching and speaking to an
25 individual.

1 (B) No person may be arrested for a violation of this Chapter unless and until such
2 officer has articulable facts upon which (s)he can state probable cause that the individual to be
3 arrested has engaged or is engaging in conduct which is prohibited in Section 10.73.010. Such
4 articulable facts must be contemporaneously recorded in a written report authored by the arresting
5 officer which must be provided to the Office of the Las Vegas City Attorney within fifteen working
6 days of the arrest.

7 (C) No conviction under this Chapter may occur unless any person arrested or detained
8 for a violation of this chapter was so detained or arrested in compliance with this chapter.
9 (Ord. 3803 § 1 (part), 1994)

10 **10.73.040 Forfeiture of property.** Any drug paraphernalia, books, papers, pagers,
11 beepers, imitation controlled substances or firearms, intended to be used or used to facilitate a
12 violation of this Chapter lawfully seized at the time of the arrest may be permanently forfeited upon
13 conviction for a violation of this Chapter pursuant to the applicable provisions of the Nevada
14 Revised Statutes.

15 **10.73.050 Penalties.** Any person who is found to have violated this Chapter shall be
16 subject to the following penalties:

17 (A) For the first violation, the court, without entering a judgment of conviction and with
18 the consent of the accused, shall suspend further proceedings and order successful completion of a
19 Municipal Court diversion program, as designed and recommended by Municipal Court Counseling.

20 (1) The diversion program shall include, but need not be limited to the following
21 components:

22 (a) Professional assessment by the State of Nevada Bureau of Alcohol
23 and Drug Abuse (BADA) certified or licensed counsellors to determine illegal drug dependencies.
24 If drug dependency is determined, then placement in a BADA accredited or licensed drug
25 counseling program, on a voluntary basis.
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1 (b) Education evaluation at a level equivalent to or better than Basic
2 Aptitude Test (BAT) to determine aptitude and job readiness; upon completion of the initial
3 assessment, placement in either a life skills training program, job training program or job placement
4 program, as deemed appropriate by Municipal Court Counseling.

5 (c) Vocational assessment and job training.

6 (2) The diversion program shall be offered free of charge if the court finds the
7 person to be indigent and thereafter on a sliding fee scale basis depending on the income of the
8 individual. All funds for the diversion program shall be provided by the City of Las Vegas. The
9 City of Las Vegas shall provide adequate staff to provide these services, and a minimum of two
10 staff persons shall track the services provided and the results of said services.

11 (3) Upon completion of the terms and conditions of the court ordered diversion
12 program, the court shall discharge the accused, dismiss the proceedings against him and order the
13 record sealed.

14 (4) Upon a determination by Municipal Court Counseling that court ordered
15 diversion is not warranted or upon the accused's failure to complete a term or condition of the
16 court ordered diversion program, the court shall enter a judgment of conviction and [may] must
17 proceed to sentence such person to pay a fine of [up to one hundred] one thousand dollars [or
18 three] and a minimum of thirty days in jail. If Municipal Court Counseling determines that the
19 person has previously completed counseling, that person shall not be eligible for diversion under
20 this Section as a first offense and shall be sentenced as otherwise provided herein. Said conviction
21 shall be utilized for enhancement purposes pursuant to the following sections.

22 (5) An individual who has successfully completed the diversion program for a
23 first offense and who subsequently commits another violation of this Chapter, shall not be eligible
24 for diversion under this Section and shall be sentenced in accordance to law.

25 (B) For the second violation, within one year of the preceding violation, performance of
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1 two hundred fifty hours of community service work at a facility designated by Municipal Court
2 Counseling.

3 (1) Failure to perform two hundred fifty hours of community service work shall
4 result in a hearing at which time the court shall receive evidence on the issue of whether said
5 community service shall be converted to a fine or jail sentence. The following factors shall be
6 considered;

7 (a) Employment of the violator;
8 (b) Familial obligations of the violator;
9 (c) Ability of the violator to pay a fine;
10 (d) Good faith effort of the violator to complete two hundred fifty hours
11 of community service work.

12 (e) Long-term residential care.

13 (2) Counsel shall be appointed for all indigent persons who are subject to a
14 hearing pursuant to this Section.

15 (3) [Any] The fine imposed pursuant to this Subsection shall [not exceed two
16 hundred fifty] be in the amount of one thousand dollars. Any jail sentence imposed pursuant to
17 this Subsection shall [not exceed ten] not be less than ninety days.

18 (C) For a third or subsequent violation within one year of a preceding violation, by a
19 jail sentence of [not less than sixty] one hundred-eighty days unless the violator:

20 (1) States both the need and commitment to complete voluntary alcohol, drug or
21 personal counseling or treatment;

22 (2) Submits to a court ordered evaluation to determine the nature and extent, if
23 any, of any such counseling or treatment needed;

24 (3) Is classified as an abuser of drugs or alcohol by a counselor certified to
25 make that classification by the bureau of alcohol and drug abuse of the rehabilitation division of the
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1 department of employment, training and rehabilitation, or a physician certified to make that
2 classification by the board of medical examiners or is recommended for personal counseling by a
3 psychiatrist or psychologist duly licensed to practice by the State of Nevada;

4 (4) Presents the court with sufficient proof of satisfactory voluntary completion
5 of counseling or treatment as ordered by the court. The counseling or treatment program shall be
6 provided free of charge, if the court finds the person to be indigent, and thereafter on a sliding fee
7 scale depending upon the income of the individual.

8 **10.73.060 Report by City Attorney.** The City Attorney, or his designee is directed to
9 provide monthly statistical reports to the City Council and to the Anti-Drug Review Committee on
10 the use and effectiveness of this Chapter. The report shall be accompanied by a summary of each
11 arrest made pursuant to Section 10.73.030(B). These reports should include, but not be limited to:
12 the number of individuals detained for a violation of this Chapter, the number of arrests made, the
13 race, color, nationality, or gender of all persons so arrested or detained, the geographic location of
14 the arrest, the number of convictions obtained under this Chapter, the number of people who have
15 sought counseling or treatment under this Chapter and the number of people who were found to
16 have successfully completed any such counseling or treatment. These reports should be
17 substantially similar to the form reflected in Attachment A to the ordinance codified in this
18 Chapter.

19 **10.73.070 Anti-Drug Review Committee established.** The Anti-Drug Review
20 Committee shall be established within sixty days of the enactment of the ordinance codified in this
21 Chapter. It shall be comprised of ten members, with the Mayor and each Council Member
22 individually appointing two Committee members.

23 The Committee shall meet monthly, beginning not more than thirty days following the
24 effective date of the ordinance codified in this Chapter. The Committee shall be authorized to:

25 (A) Review summaries of arrest reports prepared by the City Attorney pursuant
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1 to Section 10.73.060 of this Chapter for the purpose of determining the race, color, ancestry,
2 national origin, and gender of all persons arrested pursuant to this Chapter, as well as the
3 geographic locations of the arrests, the number of convictions obtained under this Chapter, the
4 number of people who have sought counseling or treatment under this Chapter, the number of
5 people who were found to have successfully completed any such counseling or treatment, and
6 information pertaining to peace officer's qualifications to make detention or arrests pursuant to
7 Section 10.73.030;

8 (B) Entertain statements of witnesses as to circumstances surrounding
9 enforcement of this Chapter;

10 (C) Make recommendations to the Mayor and the City Council with regard to
11 the enforcement of this Chapter;

12 (D) Review the effectiveness of the training regarding the ethnic and cultural
13 diversity of areas and individuals in the community.

14 Within six months of the effective date of the ordinance codified in this Chapter, the
15 Committee shall make findings and recommendations to the Mayor and the City Council as to the
16 effectiveness of this Chapter in curtailing the criminal conduct sought to prevented and as to
17 whether the ordinance is being enforced without regard to race, color, ancestry, national origin,
18 gender or disability.

19 SECTION 2: If any section, subsection, subdivision paragraph, sentence, clause or phrase
20 in this ordinance or any part thereof, is for any reason held to be unconstitutional or
21 invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the
22 validity or effectiveness of the remaining portions of this ordinance or any part thereof.
23 The City Council of the City of Las Vegas, Nevada, hereby declares that it would have passed each
24 section, subsection, subdivision, paragraph, sentence, clause or phrase thereof,
25 irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs,
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1 sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

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

5 PASSED, ADOPTED and APPROVED this 1st day of NOVEMBER, 1995.

6 APPROVED:

7 By

JAN LAVERTY JONES, MAYOR

8
9 ATTEST:

10 Kathleen M. Tighe, City Clerk

11 Approved as to form:

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14 3/1/96 Date
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1 The above and foregoing ordinance was first proposed and read by title to
2 the City Council on the 3rd day of October, 1995, and referred to the following committee
3 composed of the Full Council for recommendation; thereafter the said committee reported
4 favorably on said ordinance on the 1st day of November, 1995, 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 first introduced and adopted by the following vote:

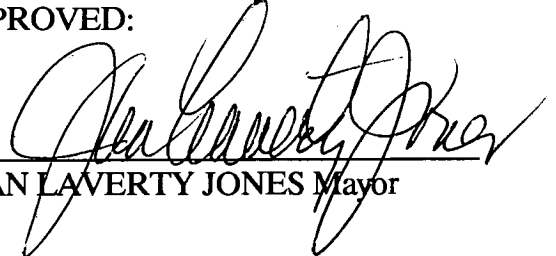
7 VOTING "AYE": Councilmen Adamsen, Callister, McDonald and Reese

8 VOTING "NAY": NONE

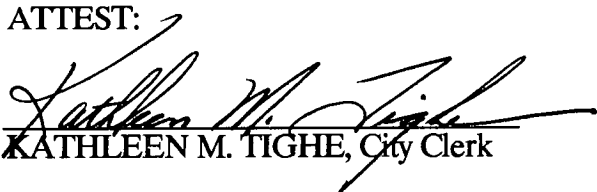
9 ABSENT: NONE

10 DID NOT VOTE: Mayor Jones

11 APPROVED:

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13 By 
14 JAN LAVERTY JONES Mayor

15 ATTEST:

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17 KATHLEEN M. TIGHE, City Clerk
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Nov 9 10 36 AM '95

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BILL NO. 95-70
ORDINANCE NO. 3938

AN ORDINANCE RELATING TO UNLAWFULLY DIRECTING ANOTHER WITH THE INTENT TO AID AND ABET UNLAWFUL POSSESSION OR DISTRIBUTION OF A CONTROLLED SUBSTANCE; AMENDING TITLE 10, CHAPTER 73 OF THE MUNICIPAL CODE OF THE CITY OF LAS VEGAS, NEVADA, 1983 EDITION; PROVIDING FOR THE ADDITIONAL MISDEMEANOR OFFENSE OF SOLICITING THE UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE; PROVIDING ENHANCED PENALTIES FOR A FIRST, SECOND AND THIRD OFFENSE IDENTIFIED IN TITLE 10, CHAPTER 73, AS AMENDED HEREIN; PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

SPONSORED BY:
Councilman Gary Reese

SUMMARY: Amends Title 10, Chapter 73 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, prohibiting the solicitation of a controlled substance and increasing the penalties for directing another with the intent to aid and abet unlawful possession or distribution of a controlled substance.

The above and foregoing ordinance was first proposed and read by title to the City Council on the 3rd day of October, 1995, and referred to the following committee composed of the Full Council for recommendation; thereafter the said committee reported favorably on said ordinance on the 1st day of November, 1995, 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 first introduced and adopted by the following vote:

VOTING "AYE" Councilmen Adamson, Callister, McDonald and Reese
VOTING "NAY" NONE
ABSENT NONE
DID NOT VOTE Mayor Jones

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 5TH FLOOR, 400 EAST STEWART AVENUE, LAS VEGAS, NEVADA. PUB: November 4, 1995 Las Vegas Review-Journal

STATE OF NEVADA)
COUNTY OF CLARK) SS:

BARBARA CARR, being first duly sworn, deposes and says:

That she/he is a 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 of which is attached, was continuously published in the LAS VEGAS REVIEW-JOURNAL or THE LAS VEGAS SUN for a period of ONE insertions from the period of NOVEMBER 4, 1995 to NOVEMBER 4, 1995, on the following days:

NOVEMBER 4, 1995

Signed: Barbara Carr

Subscribed and sworn to before me this 7 day of Nov, 19 95

Peggy D. Barron
Notary Public



PEGGY D. BARRON
Notary Public - Nevada
Clark County
My appt. exp. Feb. 17, 1998

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At a City Council meeting
OCTOBER 3, 1995

BILL NO. 95-70 WAS READ BY TITLE AND REFERRED TO RECOMMENDING COMMITTEE:

Full Council

COPIES OF THE COMPLETE BILL ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 5TH FLOOR, CITY HALL, 400 EAST STEWART AVENUE, LAS VEGAS, NEVADA.

PUB: October 19, 1995
Las Vegas Review-Journal

STATE OF NEVADA)
COUNTY OF CLARK) SS:

BARBARA CARR, being first duly sworn, deposes and says:

That she/he is a 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 of which is attached, was continuously published in the LAS VEGAS REVIEW-JOURNAL or THE LAS VEGAS SUN for a period of ONE insertions from the period of OCTOBER 19, 1995 to OCTOBER 19, 1995, on the following days:

OCTOBER 19, 1995

Signed: Barbara Carr

Subscribed and sworn to before me this

20 day of Oct, 19 95

Peggy D. Barron

Notary Public



PEGGY D. BARRON
Notary Public - Nevada
Clark County
My appt. exp. Feb. 17, 1998

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VOTING "AYE" Councilmen: Adamson, Collister, McDonald and Reese
VOTING "NAY" NONE
ABSENT NONE
DID NOT VOTE Mayor Jones
COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 5TH FLOOR, 400 EAST STEWART AVENUE, LAS VEGAS, NEVADA.
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COUNTY OF CLARK) SS:

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NOVEMBER 4, 1995

Signed: Barbara Carr

Subscribed and sworn to before me this

7 day of Nov, 19 95

Peggy D. Barron
Notary Public



PEGGY D. BARRON
Notary Public - Nevada
Clark County
My appt. exp. Feb. 17, 1998



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OCTOBER 19, 1995

Signed

Subscribed and sworn to before me this 20 day of Oct, 19 95

Peggy D. Barron

Notary Public



PEGGY D. BARRON
Notary Public - Nevada
Clark County
My appt. exp. Feb. 17, 1998

