

[Bracketed] material is that portion being deleted  
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BILL NO. \_\_\_\_\_

SUMMARY: A liquor and gaming ordinance to amend Title 8, Chapter 8.20, Section 8.20.020.385, definition of a Tavern and operating requirements of Taverns with Class A Gaming Licenses; Section 8.20.295 to amend the distance restrictions between tavern licenses; Section 8.20.260 requirements for non-conforming tavern locations; and Title 8, Chapter 8.04. Section 8.04.040, Class A Slot Machine License requirements.

ORDINANCE NO. \_\_\_\_\_  
(of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 8, CHAPTER 8.20, SECTION 8.20.020.385, DEFINITION OF TAVERN AND OPERATING REQUIREMENTS OF TAVERNS WITH CLASS A GAMING LICENSES; TO AMEND SECTION 8.20.295, ALLOWABLE DISTANCE RESTRICTIONS BETWEEN TAVERN LICENSES; TO AMEND SECTION 8.20.260, REQUIREMENTS FOR NON CONFORMING TAVERN LOCATIONS; TO AMEND TITLE 8, CHAPTER 8.04, SECTION 8.04.040, CLASS A SLOT MACHINE LICENSE REQUIREMENTS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, SITTING AS THE CLARK COUNTY LIQUOR AND GAMING LICENSING BOARD, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 8, Chapter 8.20, Section 8.20.020.385 is amended as follows:

8.20.020.385 - Tavern.

"Tavern" means a bar, or lounge, where alcoholic liquors are sold at retail by the drink to the general public. [The only gaming license which may be operated in conjunction with a tavern is Class A slot machine.] A tavern liquor license is the only category of liquor license that a licensed adult entertainment cabaret is eligible for. [All establishments

which have been granted a tavern license and a Class B slot machine license as of June 1, 1981 may, upon change of ownership, continue to be licensed for tavern operations if the new owners are found suitable.] A restaurant may be operated on the same premises with a tavern. If a restaurant is operated on the same premises with a tavern, [M]inors are allowed in the restaurant provided there is separation between the bar and/or lounge area and the restaurant area by a structural barrier sufficient to exclude minors from the bar and/or lounge area, and provided that no liquor sales, consumption, or distribution occur in an area not licensed for liquor sales or under the control of the liquor licensee.

Alcoholic liquors may be served to all patrons aged twenty-one and older throughout the premises, except that any person twenty-one and older accompanying a minor in the restaurant portion of the business may only be served alcohol only in conjunction with meals at dining tables or booths. Whenever package liquor is sold in a tavern, it is unlawful to consume the contents of the package liquor on the premises. Taverns licensed prior to separation requirements relating to restaurants in taverns shall be required to come into compliance with said requirements upon change of ownership of the business or upon transfer of fifty percent or more of stock. The only gaming license which may be operated in conjunction with a tavern is Class A slot machine, provided, however, that all establishments which been granted a tavern liquor license and a Class B slot machine license as of June 1, 1981 may, upon change of ownership of the business or upon transfer of fifty percent or more of the stock or other ownership interest in the entity owning such business, continue to be licensed for a tavern liquor license and a Class B slot machine license if the new owners are found suitable. With respect to any application for a Class A slot machine gaming license for a new tavern location that was filed on or

after December 21, 2010, the applicant must demonstrate by clear and convincing evidence that : (a) the tavern consists of at least two thousand five hundred square feet of area open and available for use by patrons, (b) at least two-thirds of all slot machines in the tavern area are located in a bar as defined in Chapter 8.20 of this code, and (c) the tavern includes a restaurant as defined in Chapter 8.20 of this code except that stools at the bar may be included in restaurant seating, which restaurant must be operated not less than twelve hours per each day that the tavern is open for business to the public. Any tavern which has been granted a Class A slot machine license prior to December 21, 2010, and which is not in full compliance with subsections (a), (b) or (c) above, must comply with subsection (b) above upon the earlier of: (i) a change of ownership of such business or upon the transfer of fifty percent or more of the stock or other ownership interest in the entity owning such business, or (ii) on or before February 1, 2013 in order to continue to be licensed for a Class A slot machine license.

SECTION 2. Title 8, Chapter 8.20, Section 8.20.295 is amended as follows:

8.20.295 - Distance restrictions for tavern licenses.

(a) Except as otherwise provided in Section 8.20.060 or in subsection (c) below, [(a) N] no tavern license shall be issued in the county unless the main entry door of the prospective tavern be not less than [one] two thousand [five] six hundred forty feet [radius] from the main entry door of the nearest existing tavern and/or nonconforming tavern location as defined in Section 8.20.060, nor less than one thousand two hundred fifty foot radius from the main entry door of the nearest existing tourist club and/or nonconforming tourist club location as defined in the definition of "tourist club" in Section 8.20.020,], or unless the prospective tavern is in a location which has been

licensed or otherwise specifically provided for in subsections (c), (d), (e), (f), (g) and (h) below. ]

(1) "Main entry door" for the purpose of this section is defined to be that entry door that is used by patrons for entry that is located on the address side of the establishment; if there is no entry on the address side of the establishment, then the main entry door will be the entry that is located on the parking lot side of the establishment and used by patrons for entry.

(b) Nothing herein shall be construed to require the approval of an application for a license to sell, serve or otherwise distribute liquor from a bar simply because one may be issued in accordance with the distance restrictions. The Clark County liquor and gaming licensing board retains all discretion to approve or disapprove license applicants.

(c) [One tavern license may be issued to an applicant located in a commercial center as defined in Section 8.20.020 that is outside the area designated as an H-1 gaming enterprise district.]

[(d)] Three tavern licenses may be issued in a commercial center as defined in Section 8.20.020 that is within an area designated as an H-1 gaming enterprise district.

[(e)] Those tavern license applicants which have filed a letter of intent with the licensing department or which have applications pending before the liquor and gaming licensing board as of May 30, 1980, and which ultimately are granted a license may be excluded from the one thousand five hundred foot restriction.

(f) If such bars are to be located in the same establishment and location, and operated as a single business, the tavern licensee may apply to the licensing board for additional tavern licenses.

(g) (1) A tavern which is operated in conjunction with a restaurant which has twelve or more pocket billiard tables measuring at least four and one-half feet by nine feet in size, which maintains structural barriers between the bar and restaurant area and billiard hall, and which excludes minors from the bar-lounge and billiard hall area and which was licensed prior to July 29, 1988, is exempt from the distance restriction and is subject to licensure and/or renewal pursuant to Section 8.20.060.

(2) A tavern qualifying for the exemption of the distance restriction set forth under subsection (g)(1) may maintain such exemption where any or all of the pocket billiard tables are removed for the purpose of making improvements to the property by constructing a lounge area as defined by Section 8.20.020.200, or a restaurant as defined by Section 8.20.020.310 or a restaurant as defined by Section 8.20.020.315 and upon submission to the Director of such a request and upon inspection by the Department following the completion of the lounge area.

(h) A tavern which was licensed prior to May 30, 1980 that has been subject to an act of condemnation by a government entity (other than Clark County), whereby the tavern is relocated to a new location, may be excluded from the one thousand five hundred foot distance restriction provided the tavern's new location is not less than five hundred feet from the nearest existing tavern and/or nonconforming tavern location as defined in Section 8.20.060.]

SECTION 3. Title 8, Chapter 8.20, Section 8.20.060 is amended as follows:

8.20.060 - Nonconforming locations.

Tavern locations which are licensed as such [on January 1, 1989, and which are exempt from the one thousand five hundred foot] or which have filed a letter of intent with the licensing department or which have applications pending before the liquor and gaming licensing board as of March 29, 2011, and do not conform to the distance restrictions [as provided] set forth in Section 8.20.295 [because they are located in shopping centers smaller than ten acres, less dedications required by law], may continue to operate and maintain such liquor license unless such location remains without the nonconforming license for a period of [eighteen] six consecutive months. All other locations in which liquor establishments are situated are nonconforming as to distance restrictions but which have been granted a valid liquor license may continue to operate and maintain such liquor license unless the location remains without the nonconforming license for a period of [eighteen] six consecutive months.; provided, however, that such eighteen months' period shall not commence with respect to the location at which any tavern or other liquor establishment that was forced to discontinue operations as the result of the seizure of such location by any governmental entity (other than Clark County), including without limitation any agency of the federal government, was prevented from resuming operations and was rendered unmarketable as the result and during the pendency of such seizure action, until such seizure has been released or such location has been forfeited to, and sold by such governmental entity; and, provided further, that any license that is thereafter issued for such location shall permit the same type of liquor operations as were conducted at such location before the same were discontinued; said location shall

additionally be entitled to any other liquor license permitted by the code using the new license date after governmental seizure for compliance with any liquor code limitations. Tavern sites located within existing and operating commercial centers which meet all of the commercial center requirements as defined in Section 8.20.020, may be considered for licensure as a tavern and thereafter be deemed nonconforming pursuant to this section provided a complete tavern liquor license application is filed by June 30, 2001.

Property being developed as a commercial center as defined in Section 8.20.020 for which building permits have been obtained by February 15, 2001, may qualify for a tavern liquor license if otherwise eligible and thereafter be deemed nonconforming pursuant to this section, provided a complete application for such tavern liquor license is filed with the department on or before June 30, 2001.

Existing licensed taverns currently operating in a commercial center as defined in Section 8.20.020, and those taverns licensed pursuant to this section, may continue to operate and maintain such tavern liquor license unless such location remains without the nonconforming tavern liquor license for a period of eighteen consecutive months.]

SECTION 4. Title 8, Chapter 8.04, Section 8.04.040 is amended as follows:

8.04.040 - License classification—Requirements and restrictions.

(A) An applicant may apply for any one or more gaming licenses consistent with the requirements and conditions of this code. The applicant shall provide on the initial or renewal application a complete description of the games, devices and/or slot/mobile gaming machines which applicant desires to operate and the establishment wherein the gaming will take place. That information shall be entered on the license prior to issuance.

The license issued by the board shall entitle the licensee and employees thereof to carry on, conduct, and operate only the specific type and class of slot machines, games or devices for which the license is issued, and for the period of time and at the location stated thereon.

(B) Gaming licenses are classified as follows:

(1) Restricted Live Game License. One which permits the operation of either three, five or ten live games as set forth in Section 8.04.310.

(2) Unrestricted Live Game License. One which permits the operation of an unrestricted number of live games, but such license is limited to resort hotels.

(3) Class A Slot Machine License. One which permits the operation of a total of fifteen or fewer slot machines incidental to the primary business at the establishment wherein the slot machines are to be located (non-resort hotels, supermarkets, convenience stores, taverns, [department stores, theaters,] restaurants, etc.) regardless of ownership of the slot machines. In recommending and determining whether an operator's proposed or current operation of slot machines is incidental to the primary business at a particular location, the following factors shall be considered:

(a) The amount of floor space used for the operation of the slot machines as compared to the floor space used for the operation of the primary business, it being presumed that the floor space under and around the slot machines, and all related and associated equipment, that is not occupied by furniture, equipment or inventory associated with the primary business is floor space devoted to the operation of slot

machines and that such area shall not be more than twenty percent (20%) of the total floor space of the establishment.

- (b) The amount of investment in the operation of the slot machines and all related and associated equipment shall not exceed twenty (20%) of the amount of investment in the primary business;
- (c) The amount of time required to manage or operate the slot machines, including time spent by an employee of a third-party or affiliate of the licensee involved in the operation of the slot machines shall not be more than twenty (20%) of the time required to manage or operate the primary business;
- (d) The revenue generated by the slot machines shall not exceed fifty percent (50%) of the revenue generated by the primary business;
- (e) Other factors, including but not limited to the establishment's name, the establishment's marketing practices, the public's perception of the business, and the relationship of the slot machines to the primary business.

(4) Class B Slot Machine License. One which permits the operation of not more than fifty slot machines; provided, however, that:

(a) No application shall be received for, and no license be issued for such license subsequent to December 30, 1985, and

(b) Licenses which are operated only in conjunction with a service bar liquor license may expand the number of slot machines to not more than seventy-five if said machines are installed and operating prior to January 31, 1986.

(c) All such licensed establishments shall be entitled to maintain and renew either fifty slot machines or the number installed, operating and licensed as of January 31, 1986, whichever is more, not to exceed seventy-five.

(5) Class C Slot Machine License. One which permits the operation of an unrestricted number of slot machines, mobile gaming machines, and coin-operated gaming devices, but such license is limited to resort hotels and other specific nonconforming establishments as defined in Section 8.04.310.

(6) Slot/Mobile Gaming Machine Operator License. One which permits an operator, as defined herein, to operate, lease, rent, place, or install any slot or mobile gaming machine at a business establishment owned or operated by another person.

(7) Bingo License. One which permits the playing of bingo. A separate license is required for the game of bingo and may only be issued to resort hotels, to licensees at establishments which were licensed and operating a bingo game as of May 1, 1974, or to licensees holding a nonrestricted live game license at establishments which are located more than fifteen miles from the city limits of the city of Las Vegas, Nevada. No bingo licensee shall offer any prize, inducement, token, or any other form of consideration for the playing of bingo other than cash prize money.

(8) Sports Book License. One which permits a gaming establishment to accept wagers on sporting events by any system or method of wagering.

(9) Race Book License. One which permits a gaming establishment to accept wagers on racing events by any system or method of wagering.

(C) Any establishment operating under a Class A or Class B slot machine license prior to June 1, 1978, in which more slot machines were installed than that allowed under a Class A slot machine license, regardless of whether the licensee is the operator of the primary business or not, shall not be required to conform to the requirements of this section unless and until the license for that location is not renewed for any reason. Upon the termination of that license, it shall not be renewed in nonconformity with this section.

(D) A license shall not be required of a location owner who rents or leases out space for fifteen or fewer machines on a flat rental basis and who does not participate in the profits nor exercises supervision or control over the operation of the slot machines.

Any person contracting with an operator for installation of a number of slot machines in excess of fifteen but fewer than fifty must be licensed unless the contract is a space rental based upon a fixed rate, in which event the board, by majority vote, may require licensure. Upon such determination the director shall serve notice upon such person to make application for license.

An applicant for a Class A slot machine license may submit an affidavit signed by the business owner and applicant stating whether or not the owner, lessor, or operator of the establishment in which the machines will be installed receives a flat fee rental or a percentage of the return from such machines.

SECTION 5. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 6. This ordinance shall take effect and be in force from and after its passage and publication thereof by title only, together with the names of the County Commissioners voting for and against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the \_\_\_\_ day of \_\_\_\_\_, 2011.

PROPOSED BY: Commissioner \_\_\_\_\_

PASSED on the \_\_\_\_ day of \_\_\_\_\_, 2011.

AYES: \_\_\_\_\_

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NAYS: \_\_\_\_\_

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ABSTAINING: \_\_\_\_\_

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ABSENT: \_\_\_\_\_

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THE LIQUOR AND GAMING  
LICENSING BOARD OF CLARK  
COUNTY, NEVADA

BY: \_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
DIANA ALBA, County Clerk

This ordinance shall be in force and effect from and after the \_\_\_\_ day of  
\_\_\_\_\_, 2011.