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BILL NO. _____

SUMMARY: A liquor and gaming ordinance to move distance restrictions applied to liquor and gaming establishments from Title 8, Chapters 8.20 and 8.04, Sections 8.20.020.040, 8.20.020.070, 8.20.020.405, 8.20.060, 8.20.295, 8.20.450, 8.04.070, and 8.04.075 to Title 30 of Clark County Code; to amend Section 8.20.020.385 to require Taverns with a Class A Gaming License to have a permanent bar structure with at least four slot machines within the bar; and to create Section, 8.20.020.386 for a new liquor license category for a Non-Gaming Bar.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 8, CHAPTER 8.20, SECTIONS 8.20.020.040, 8.20.020.270, 8.20.020.405, 8.20.060, 8.20.115, 8.20.295, 8.20.450 AND CHAPTER 8.04, SECTIONS 8.04.070 AND 8.04.075 OF THE CLARK COUNTY CODE TO ELIMINATE DISTANCE RESTRICTION REQUIREMENTS FOR LIQUOR AND GAMING ESTABLISHMENTS FROM BUSINESS LICENSE CODE AND CREATE DISTANCE RESTRICTIONS AS PART OF THE LAND USE APPROVAL PROCESS PURSUANT TO TITLE 30; TO AMEND SECTION 8.20.020.385 TO REQUIRE TAVERNS WITH CLASS A GAMING LICENSES TO HAVE A PERMANENT BAR STRUCTURE WITH AT LEAST FOUR SLOT MACHINES EMBEDDED IN THE BAR; TO CREATE SECTION 8.20.020.386 FOR A NEW LIQUOR LICENSE CATEGORY, NON-GAMING BAR; 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 8.20.020.040 is hereby amended as follows:

8.20.020.040 - Brew pub license. A "brew pub license" permits the holder of such license to: (1) manufacture and store malt beverage on the premises of the licensee, subject to the definitions and production limitations imposed by Chapter 597 of the Nevada Revised Statutes; (2) sell at retail malt beverage manufactured on the premises of the licensee for consumption on the premises; (3) sell at retail malt beverage manufactured, packaged, and sealed on the premises of the licensee for off-premises consumption; and (4) sell and transport malt beverage manufactured on the premises of the licensee to a person who holds a valid wholesale wine and liquor dealer's or wholesale beer dealer's license issued pursuant to Chapter 369 of the Nevada Revised Statutes.

A brew pub license shall only be issued to establishments that hold a valid tavern liquor license, supper club license, or main bar license in a resort hotel. All establishments issued a brew pub license must also conform to any other applicable provisions of the Clark County Code.

[No brew pub license shall be issued unless the main door of the establishment in which the brew pub will be located is not less than a one thousand five hundred feet radius from the main entry door of the nearest existing establishment containing a brew pub, unless the prospective brew pub will be located within a resort hotel. The term "main entry door" has the same meaning as ascribed to it in Section 8.20.295(a)(1).]

SECTION 2. Title 8, Chapter 8.20, Section 8.20.020.270 is hereby amended as follows:

8.20.020.270 - Package liquor license.

(a) A "package liquor license" permits the sale of alcoholic liquors in unopened original containers for consumption off-premises only.

(b) A package liquor license may be granted to gift stores, liquor stores in a regional commercial retail mall, liquor stores in resort hotels and time share facilities, grocery stores and drug stores [provided it is kept in an enclosed area as required in Section 8.20.282], main bars (except when issued in conjunction with a live entertainment venue), liquor stores, taverns, and to a convention facility licensed pursuant to Section 8.20.479(b) to permit the sale of gift wrapped "Nevada" or "Las Vegas" marked souvenir package liquor from portable bars during conventions, provided a separate license is obtained for each location from which such souvenirs are sold.

[(c) Except for a package liquor license issued in conjunction with a regional commercial retail mall, a package liquor license shall not be granted to a package liquor store if the establishment is within a one thousand five hundred feet radius of an existing licensed package liquor store.]

SECTION 3. Title 8, Chapter 8.20, Section 8.20.020.405 is hereby amended as follows:

8.20.020.405 - Tourist club.

A "tourist club" means an establishment located on the "entertainment corridor" whose primary purpose is the provision of entertainment, food and alcoholic beverages to the tourism market. For the purpose of this definition, the "entertainment corridor" consists of the immediate area of Las Vegas Boulevard South ("LVBS") between Sahara Avenue and Russell Road on both the east and west sides of LVBS. To be considered a tourist club, the establishment must have a LVBS business address and a primary customer entrance facing LVBS.

A tourist club must consist of a minimum of ten thousand square feet of floor space, exclusive of office, kitchen, storage or restroom areas, dedicated to the conduct of entertainment and the service of food and alcoholic beverages. The establishment must have a consistent and distinct architectural theme throughout the interior and exterior of the premises. The establishment must have a physical bar and lounge area that can accommodate a minimum of twenty-five seated patrons at least ten of whom must be accommodated by seating at the bar itself and a restaurant as defined in this chapter with a seating capacity for a minimum of two hundred fifty customers. The restaurant must be completely open and operating at all times liquor is being served in the establishment.

Minors may be permitted on the premises, but only in the restaurant area, provided it is physically separated from the bar, lounge, and entertainment areas.

A tourist club must represent a minimum investment of ten million dollars in the real property, improvements and personal property, or a market value appraisal of the real property, improvements and personal property comprising the tourist club of a minimum value of ten million dollars. No more than twenty percent of the land value may be applied to the required minimum investment of ten million dollars. The appraisal report must be prepared by a state certified appraiser and must reflect a value on a date that is within sixty days of board consideration of the applicable liquor license application for the tourist club.

The only liquor license that may be issued to a tourist club are main bars, with service bars as necessary. The only gaming license which may be issued in conjunction with a tourist club is a Class A slot machine license.

[No liquor license shall be issued to tourist club unless the main door of the prospective tourist club is not less than a one thousand two hundred and fifty foot radius from the main entry door of any and all of the following: the nearest existing tourist club holding a valid liquor license, nearest existing tavern or any nonconforming tavern location as defined in Section 8.20.060.

Licensed tourist clubs whose applications were filed on or before May 29, 2002, and taverns or nonconforming taverns that were licensed and operating on or before May 29, 2002, shall be deemed nonconforming as to the above-referenced distance restrictions; the requirement to keep the restaurant completely open and operating at all times liquor is being served; and the requirement that no more than twenty percent of the land value may be applied to the required minimum investment of ten million dollars.

Nonconforming tourist club locations may continue to operate and maintain such liquor license unless the location remains without the nonconforming license for a period of eighteen consecutive months.]

A separate license is required for the restaurant and any other business activity, including but not limited to the charging of admission fees, which may be operated in conjunction with a tourist club.

SECTION 4. Title 8, Chapter 8.20, Section 8.20.060 is hereby 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 distance restriction as provided 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 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, or have an application with the department pending as of March 15, 2011 may continue to operate and maintain such liquor license unless the location remains without a liquor [the nonconforming] license for a period of eighteen 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. All new liquor license applications submitted on March 16, 2011 or thereafter shall conform to the distance restriction requirements set forth in Title 30.

[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 5. Title 8, Chapter 8.20, Section 8.20.115 is hereby deleted in its entirety as follows:

[8.20.115 Preliminary location determination.

An applicant may petition the board for preliminary determination of location suitability for a liquor license by filing a complete application for such determination with the director. A complete application for preliminary location suitability shall include payment of all required fees and proof of all of the following:

- (a) Ownership or long-term lease of the premises;
- (b) Proper zoning approvals and, if required, use permits for the license sought;
- (c) Certified statement or diagram from a registered land surveyor stating distances from all other existing liquor licenses, schools, churches, and teenage

dancehalls within a one thousand five hundred foot radius of the entry door of the proposed liquor establishment. The points of measurement shall be as specified in the relevant sections of this chapter; and

(d) Site plans and renderings of the proposed liquor establishment as prepared by a licensed architect or similar professional.

Location suitability may be approved for a period of twenty-four consecutive months by the board based upon a review of all documentation submitted and information presented. All applications for preliminary location suitability determination shall be subject to the provisions of Clark County Code Section 8.20.450 so that a public hearing, if required, shall be held at the time the application for preliminary location suitability is considered by the board. There will be no requirement for another public hearing at the time of the applicant's licensure, provided such licensure is granted during the term of the preliminary location suitability determination. Unless otherwise provided for in this section, there are no waivers, exceptions, or extensions of time on a location suitability, and the application must be presented to the board for determination at the next available Liquor and Gaming Licensing Board meeting after the complete application is filed with the department. For the purposes of this section, the twenty-four month period begins when the item is placed before the board for determination and expires at midnight of the last calendar day of the twenty-fourth month.

Once location suitability has been approved, the applicant must submit progress reports to the director, consisting of but not limited to, photos of the work site, copies of permits, work in progress reports, estimated completion dates of construction and opening of the business, and any other information that will show the status and progress

of the project. Applicants approved for both liquor and gaming preliminary location suitability may submit consolidated reports for the project. Progress reports shall be due one hundred eighty days from the date of board approval of the location suitability, and every one hundred and eighty days thereafter until the business is licensed and open to the public. If the applicant fails to submit the progress reports when due, the location suitability shall automatically expire. Proof of application for required building permits for the construction or remodeling of the premises must be provided to the director no later than nine months from the date of board approval of the location suitability or such approval shall automatically expire, unless the director, upon receiving documentation showing just cause, grants a ninety-day administrative extension. Such proof must include the furnishing of applicable building permit application center ("PAC") numbers and "HTE" numbers for engineering/traffic/hydrology studies, reports and improvement plans, submitted to the county. Extensions on filing for the required permits must be requested by the applicant at least seven working days prior to the expiration of the initial approval or last granted extension. Extensions for filing required permits do not extend the twenty-four month period of an approved location suitability. An applicant must also submit a complete application, as defined in this chapter, for the liquor license at least eight months prior to expiration of the location suitability. The type(s) of liquor license(s) applied for must be the same as those for which the location suitability approval was granted.

The twenty-four month limitation, may, however, be extended by the board for two additional six-consecutive-month periods, if the applicant can show good cause that the additional time is needed, such as a showing of unanticipated delays caused entirely

by a governmental agency that is required by this code to be involved in the applicant's location suitability and/or the liquor license approval process. However, satisfactory progress toward completion of the project and compliance with the requirements of this section must be demonstrated to the board before any extensions may be granted. The LVMPD may require updated personal history and/or financial questionnaires for those applicants for liquor licenses filed in conjunction with location suitabilities that extend twelve months beyond the date of filing the completed liquor application. In the event that an applicant withdraws the location suitability application, surrenders the location suitability, fails to meet all necessary requirements of this section, or an applicant fails to receive liquor license approval and commence business within the time period that was approved by the board for preliminary location suitability, a new location suitability application or liquor license application from the same applicant(s) or same owner(s) for that location/parcel of land may not be filed within ninety days of the date the department receives notice of withdrawal, surrender, expiration, or the last day of the period approved by the board.

A determination of location suitability is not an asset of the applicant and may not be transferred, assigned or sold. During any time that location suitability has been obtained and is in effect, if there is any cumulative transfer, assignment or sale of fifty percent or more of the applicant entity, then the location suitability approval automatically expires, effective the date of the transfer, assignment, or sale and a new location suitability application from that entity or any owner of that entity may not be filed for ninety days from the transfer, assignment or sale. Any transfer, assignment, or sale of less than fifty percent of the applicant entity shall be reported in writing to the

director within ten calendar days of such transaction. Failure to report such transfer, assignment or sale as required shall be grounds for termination of the determination of preliminary location suitability. A change of corporate or other business structure name, or change of fictitious firm name, does not constitute a change of ownership nor does it interrupt the required suitability timelines as outlined in this section. Once location suitability has been granted by the board, that location will, be treated solely for the purpose of determining distance restrictions, as though it were licensed until such time as the location suitability expires or a liquor license is issued.

For the purpose of providing notice that the location has been approved for location suitability, a sign must be posted on the property facing each public roadway that borders the subject property and any such signs must be set back the minimum distance from the public right-of-way in accordance with the requirements of the department of development services. The sign must be posted within seven days of receiving location suitability approval from the board and must remain posted for the entire effective period of the location suitability determination or until the liquor license is issued. If the location suitability expires due to the applicant's withdrawal of the location suitability application or failure to comply with any of the requirements of this section, the sign shall be removed from the property within twenty-four hours of the expiration of the location suitability. The lettering on the sign must be at least six inches in height and the sign must be at least four feet by six feet in size.

The sign must state all of the following:

- (1) Date location suitability was received;
- (2) Date location suitability expires;

(3) The type of business and liquor license for which the location suitability was granted; and

(4) Name of the applicant and contact telephone number.

Any such location suitability determination [given] is subject to all conditions of Chapter 8.20. The applicant has the burden of convincing the board that the location is suitable for a liquor establishment at that location.

A location suitability determination does not grant or vest a liberty or property interest in or to a liquor license. A liquor license may be granted or denied depending upon applicant suitability, changing conditions, subsequent code amendments, code requirements, and board discretion at the time of the license hearing. The recipient of a location suitability determination builds or remodels at his or her own risk without recourse against the board or any of its members or staff if such location should fail to receive a liquor license or should fail to be profitable for any reason whatsoever.

Complete competing location suitability determination applications shall be presented to and reviewed by the board in the order in which they were received by the department.

The holder of an approved preliminary location suitability may petition the board to allow their site plan to change by filing an amendment to the location suitability with the director. The amendment shall not be accepted unless it is complete. A complete amendment for an approved preliminary location suitability shall include payment of an investigative fee of two hundred fifty dollars and proof of all of the following:

(a) Proper zoning approvals and, if required, use permits for the license sought for the new site plan:

(b) Certified statement or diagram from a registered land surveyor stating distances from all other existing liquor licenses, schools, churches, and teenage dancehalls within a one thousand five hundred foot radius of the new site of the new location of the entry door of the proposed liquor establishment. The points of measurement shall be as specified in the relevant sections of this chapter; and

(c) New/revised site plans and renderings of the proposed liquor establishment as prepared by a licensed architect or similar professional.

An amendment of a location suitability approved by the board does not change the original date of approval for the location suitability application, nor does it interrupt the required suitability timelines as outlined in this section.

The applicant for such determination of location suitability must pay with the filing of the application a one thousand five hundred dollar nonrefundable location suitability investigation fee. Fifty percent of this fee may be applied toward the initial liquor licensing fee if the applicant receives its liquor license within the time period that location suitability has been obtained and remains valid and if the applicant for location suitability is the same entity as the liquor license applicant. For each request for an amendment to a location suitability, an investigative fee of two hundred and fifty dollars shall be assessed. For a request for six-month location suitability extension, an investigative fee of two hundred and fifty dollars shall be paid.]

SECTION 6. Title 8, Chapter 8.20, Section 8.20.295 is hereby amended as follows:

8.20.295 - Distance restrictions for tavern licenses. (a) No tavern license shall be issued in the county unless the location [main entry door] of the prospective tavern meets all requirements set forth under Title 30 of this code. [be not less than one thousand five hundred 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 7. Title 8, Chapter 8.20, Section 8.20.450 of the Clark County Code is hereby deleted in its entirety as follows:

[8.20.450 - Location restrictions.

(a) No tavern liquor license or package liquor license operated in conjunction with a liquor store shall be granted to any establishment located within one thousand five hundred feet of any of the following: (1) any entry onto school property (gate, door, driveway, etc.); (2) any place wherein a school is conducted; or (3) within one thousand five hundred feet of any church, except that the board may waive the distance restrictions set forth in sections (1), (2) and (3) herein after holding a public hearing for a liquor store

if an adequate barrier exists between the two uses; but under no circumstances can the distance between the two uses be less than five hundred feet. These one thousand five hundred-foot distance restrictions shall also apply to all other liquor license categories and to a permanent facility used by a nonprofit organization (qualified under IRC 501(c)) for the primary purpose of displaying and fostering art provided such facility is otherwise eligible for a portable bar license, except that the board may waive the distance restriction for all other liquor license categories after holding a public hearing and making a determination that the proposed alcoholic liquor establishment will not impair the public health, safety and welfare of the community. These one thousand five hundred-foot distance restrictions shall not apply to: (A) any licensees or places of business selling alcoholic liquors in a location approved by the board for a liquor license prior to May 31, 1988 (including taverns or package liquor licenses in conjunction with liquor stores meeting this criteria), as long as that type of license does not change; (B) licensees engaged in the business of selling alcoholic liquors in an approved location which would become a prohibited location by reason of the establishment of a church or public school within one thousand five hundred feet of such approved location; (C) churches located in shopping centers, commercial complexes or industrial complexes; or (D) churches located subsequent to August 1, 1990, within a gaming enterprise district as defined in Title 30 of this code.

Notwithstanding the above restrictions, a tavern license may be granted, and such licensee may lawfully operate a tavern within one thousand five hundred feet of a church provided:

(1) The tavern door is in excess of five hundred feet from the nearest entry to a church and more than one thousand five hundred feet from the nearest school;

(2) The applicant for the tavern license acquired the property upon which the tavern will be located prior to June 14, 1988;

(3) The property was zoned for tavern use when acquired by the applicant;

(4) The board determines at a public hearing that the public health, safety, welfare and morals will not be impaired; and

(5) The application for a tavern license is filed prior to July 1, 1990.

The board may also grant a tavern license to an establishment that is within one thousand five hundred feet of a church if the establishment is located within a commercial center as defined in Section 8.20.020 and the board determines at a public hearing that the public health, safety, welfare and morals will not be impaired.

(b) Determination of Boundary. The one thousand five hundred-foot limitation as defined in subsection (a) of this section shall be determined by measurement in a direct line from any place of entry to school premises or the entry door of the building used for church to the customer entry door of the building wherein alcoholic liquors are sold. The one thousand five hundred-foot radius rule shall apply to applications filed subsequent to July 1, 1988. All complete applications filed on or before July 1, 1988 shall be subject to the five hundred-foot radius rule.

(c) Definition of School. For the purpose of this section "school" means any public, private or religious educational institution or class maintained or conducted for the purpose of offering a course of instruction similar to that customarily offered in the public schools of this state to students in the first through the twelfth grades and

recognized by the state of Nevada Department of Education by the issuance of either a state license or exemption from state licensure.

(d) Definition of Church. For the purpose of this section "church" means any building or portion of a building that: (1) holds all required permits under Title 30 of this code for a "place of worship" as defined in that title; (2) received a certificate of occupancy from the Clark County building department; and (3) is operational ("operational" meaning the premises are available for the use by people as permitted for under Title 30 as a "place of worship").

(e) Definition of Commercial Complex. For the purpose of this section "commercial complex" means a building, or group of buildings located on a single parcel of land or having shared parking facilities, principally used or designed or intended to be used for business offices and retail sales establishments.

(f) Definition of Industrial Complex. For the purpose of this section "industrial complex" means a building, or group of buildings located on a single parcel of land or having shared parking facilities, principally used or designed or intended to be used for business offices and retail sales establishments.

(g) Definition of Adequate Barrier. For the purpose of this section, "adequate barrier" means an improved drainage facility no less than one hundred feet wide. Interstate 215 and Interstate 15.

(h) Except for import-wholesale and liquor caterer licensed locations, a license to serve, sell, give away or distribute any of the alcoholic liquors mentioned in this chapter shall not be granted if the entrance used by the customer is within a one thousand five hundred-foot radius of the customer entrance to a teenage dancehall or if the liquor

establishment is located within the same structure or building (under the same roof) as the teenage dancehall, unless waived by the licensing board. The board may waive said one thousand five hundred-foot distance requirement, if the shortest ground or stairway travel route from the customer entrance of the liquor establishment is two thousand or more feet from the customer entrance of the teenage dancehall, and if the dancehall is located in a separate structure or building from the liquor establishment, said building being separated by at least one street (public or private), alley or highway.]

SECTION 8. Title 8, Chapter 8.04, Section 8.04.070 is hereby amended as follows:

8.04.070 - Unsuitable locations.

The board may deny any application for a gaming license if it deems the place or location for which the license is sought to be unsuitable for the conduct of gaming.

(A) Without limiting the generality of the foregoing, the following places or locations are presumed to be unsuitable:

[(1) Establishments located within a fifteen hundred foot radius of churches, except where a church is located subsequent to August 1, 1990, within a gaming enterprise district as defined in Title 30 of this code, entries to school property (gates, doors, driveways, etc.) and the outside edge of children's public playgrounds (schools are defined in Section 8.20.450(c)) and churches are defined in Section 8.20.450(d);

(2) Premises located within a one-thousand-five-hundred-foot radius of a military or naval reservation camp;]

(1[3]) Premises located in a place where gaming is contrary to a valid county zoning ordinance, unless the premises qualifies for a nonconforming use under applicable zoning law;

(2[4]) Premises difficult to police;

(3[5]) Premises located within a two hundred fifty foot radius of adult-oriented businesses as defined in Title 30;

(4[6]) Premises which would or may tend to create a public nuisance.

The above restrictions shall apply to all new locations unless the location is found to be suitable for licensing by the board after a public hearing and a determination that the public health, safety and welfare will not be impaired. The above restrictions shall not apply to any location that has been previously licensed unless and until the location remains without gaming licensure for a period of eighteen consecutive months.

[The fifteen-hundred-foot distance restriction under subsection (A)(1) of this section shall apply to applications filed subsequent to July 1, 1988. All complete applications filed on or before July 1, 1988, shall be subject to a five hundred foot distance restriction.]

(B) Without limiting the generality of the foregoing, the following places or locations are found and declared to be unsuitable:

(1) Laundromats;

(2) Bakeries, donut shops and any retail store except grocery stores, gift stores, drugstores, package liquor stores, billiard parlors and convenience stores as defined in Section 8.20.020;

(3) Movie theaters and professional offices; and

(4) Category 2 restaurants as defined in Section 8.20.020.

Businesses listed above which are licensed for slot machines as of February 29, 1988, are deemed nonconforming Class A slot machine locations and may be allowed to:

(a) Renew and allow the change of ownership of licenses unless the nonconforming location remains without gaming licensure for a period of twelve consecutive months; such places or locations listed above may not be expanded or enlarged beyond the number of slot machines licensed and in operation as of October 30, 1992. Upon an applicant/licensee receiving the administrative approval of the chairman of the Nevada State Gaming Control Board, a place or location listed above as unsuitable that was previously licensed for slot machines as of February 29, 1988, may be granted an additional twelve consecutive months of closure for total period of not more than twenty-four consecutive months by the Liquor and Gaming Licensing Board upon a showing of good cause and a showing that the nature and quality of the primary business of the establishment has not materially changed, and that the number of slot machines operated at the establishment has not been increased.

(b) Change their licensed location to any otherwise suitable location upon a showing of being a licensee in good standing who has been subjected to an act of condemnation, sale of the licensed location property to the county for airport purposes, or sale of the licensed location property to the county for county road improvement purposes and good cause is found as determined by the liquor and gaming licensing board subject to the restrictions of subsection (A) of this section.

(c) Change their licensed location to any otherwise suitable

location within the same shopping center upon a showing of being a licensee in good standing, who has been requested to change locations within the shopping center by the landlord for renovation, and good cause is found as determined by the liquor and gaming licensing board subject to the restrictions of subsection (A) of this section.

(C) Supper Clubs. Without limiting the generality of the foregoing, as of December 18, 1992 supper clubs may be licensed for Class A slot machines not to exceed the operation of a total of five or fewer slot machines. Supper clubs licensed for slot machines prior to December 18, 1992 shall be deemed nonconforming, and shall continue to be subject to license renewal so long as the applicant remains suitable. If the premises are not licensed for gaming over eighteen consecutive months, the premises are no longer deemed conforming and will be limited to a total of five or fewer slot machines. Such nonconforming license may not be expanded or enlarged beyond the number of slot machines and coin-operated gaming devices licensed and in operation on December 18, 1992.

(D) Regional Transportation Commission Public Transit Transfer Terminal. Without limiting the generality of the foregoing, an applicant may be granted a Class A slot machine license where they are authorized through lease or other arrangement with the Regional Transportation Commission of Southern Nevada for operations in public transit transfer terminals owned or leased by the Regional Transportation Commission. For the purposes of this section, bus stops and monorail facilities do not meet the definition of "public transit transfer terminal" and therefore are not suitable for a gaming license. Unless otherwise defined, a "public transit transfer terminal" means a facility

owned or leased by the Regional Transportation Commission of Southern Nevada where public transit services, excluding monorail, provide either a transfer point between two or more bus routes, or a transfer point between different modes of transportation.

SECTION 9. Title 8, Chapter 8.04, Section 8.04.075 of the Clark County Code is hereby deleted in its entirety as follows:

[8.04.075 - Preliminary location determination.

An applicant may petition the board for preliminary determination of location suitability for a gaming license by filing a complete application for such determination with the director. A complete application for preliminary location suitability shall include payment of all required fees and proof of all of the following:

- (a) Ownership or long-term lease of the premises;
- (b) Proper zoning approvals and, if required, use permits for the license sought;
- (c) Certified statement or diagram from a registered land surveyor stating distances from all other existing schools, churches, military reservations, teenage dancehalls and the outside edge of children's public playgrounds within a one thousand five hundred foot radius of the entry door of the proposed gaming establishment and all licensed or pending adult business establishments within a two hundred fifty foot radius. The points of measurement shall be as specified in the relevant sections of this chapter; and
- (d) Site plans and renderings of the proposed gaming establishment as prepared by a licensed architect or similar professional.

Applicants submitting applications for preliminary location suitability for both liquor and gaming licenses may submit a certified statement or diagram from a registered land surveyor stating distances from all other existing liquor licensees (including other

location suitabilities), schools, churches, military reservations, teenage dancehalls and the outside edge of children's public playgrounds within a one thousand five hundred foot radius of the entry door of the proposed gaming establishment and all licensed or pending adult business establishments within a two hundred fifty foot radius. The points of measurement shall be as specified in the relevant sections of this chapter and those relevant sections of Chapter 8.20.

Location suitability may be approved for a period of twenty-four consecutive months by the board based upon a review of all documentation submitted and information presented. All applications for gaming preliminary location suitability determination shall be subject to the provisions of Section 8.04.070 so that a public hearing, if required, shall be held at the time the application for preliminary location suitability is considered by the board. There will be no requirement for another public hearing at the time of licensure for the gaming application, provided such licensure is granted during the term of the preliminary location suitability determination. Unless otherwise provided for in this section, there are no waivers, exceptions, or extensions of time on a location suitability, and an application must be presented to the board for determination at the next available Liquor and Gaming Licensing Board meeting after the complete application is filed with the department. For the purposes of this section, the twenty-four month period begins when the item is placed before the Board for determination and expires at midnight of the last calendar day of the twenty-fourth month.

Once location suitability has been approved, the location suitability holder must submit progress reports to the director, consisting of, but not limited to, photographs of

the work site, copies of permits, work in progress reports, estimated completion dates of construction and opening of the business, and any other information that will show the status and progress of the project. Applicants approved for both liquor and gaming preliminary location suitability may submit consolidated reports for the project. Progress reports shall be due one hundred eighty days from the date of board approval of the location suitability, and every one hundred eighty days thereafter until the business is licensed and open to the public. If the applicant fails to submit the progress reports when due, the location suitability shall automatically expire, unless the director, upon receiving documentation showing just cause, grants a ninety-day administrative extension. Proof of application for required building permits for the construction or remodeling of the premises must be provided to the director no later than nine months from the date of board approval of the location suitability or such approval shall automatically expire, unless the director, upon receiving documentation showing just cause, grants a ninety-day administrative extension. Such proof must include the furnishing of applicable building permit application center ("PAC") numbers and "HTE" numbers for engineering/traffic/hydrology studies, reports and improvement plans, submitted to the county. Extensions on filing for the required permits must be requested by the applicant at least seven working days prior to the expiration of the initial approval or last granted extension. Extensions for filing required permits do not extend the twenty-four month period of an approved location suitability. An applicant must also submit a complete application, as defined in this chapter, for the gaming license at this location at least eight months prior to expiration of the location suitability. The type(s) of gaming license(s)

applied for must be the same as those for which the location suitability approval was granted.

The twenty-four month limitation, may, however, be extended by the board for two additional six consecutive month periods, if the applicant can show good cause that the additional time is needed due to unanticipated delays caused entirely by a governmental agency that is required by this code to be involved in the applicant's location suitability and/or the liquor license approval process. However, satisfactory progress toward completion of the project and compliance with the requirements of this section must be demonstrated to the board before any extensions may be granted. The LVMPD may require updated personal history and/or financial questionnaires for those applicants for gaming licenses filed in conjunction with location suitability determinations that extend twelve months beyond the date of filing the completed gaming application. In the event that an applicant withdraws the location suitability application, surrenders the location suitability, fails to meet all necessary requirements of this section, or an applicant fails to receive gaming license approval and commence business within the time period that was approved by the board for preliminary location suitability, a new location suitability application or gaming license application from the same applicant(s) or same owner(s) for that location/parcel of land may not be filed within ninety days of the date the department receives notice of withdrawal, surrender, expiration, or the last day of the period approved by the board.

A determination of location suitability is not an asset of the applicant and may not be transferred, assigned or sold. During any time that location suitability has been obtained and is in effect, if there is any cumulative transfer, assignment or sale of fifty

percent or more of the applicant entity, then the location suitability approval automatically expires, effective the date of the transfer, assignment or sale and a new location suitability application from that entity or any owner of that entity may not be filed for ninety days from the transfer, assignment or sale. Any cumulative transfer, assignment, or sale of less than fifty percent of the applicant entity shall be reported in writing to the director within ten calendar days of such transaction. Failure to report such transfer, assignment or sale as required shall be grounds for termination of the determination of preliminary location suitability. A change of corporate or other business structure name, or change of fictitious firm name, does not constitute a change of ownership nor does it interrupt the required suitability timelines as outlined in this section. Once location suitability has been granted by the board, that location will, be treated solely for the purpose of determining distance restrictions, as though it were licensed until such time as the location suitability expires or a gaming license is issued.

For the purpose of providing notice that the location has been approved for location suitability, a sign must be posted on the property facing each public roadway that borders the subject property and any such signs must be set back the minimum distance from the public right-of-way in accordance with the requirements of the department of development services. The sign must be posted within seven days of receiving location suitability approval from the board and must remain posted for the entire effective period of the location suitability determination or until the gaming license is issued. If the location suitability expires due to the applicant's withdrawal of the location suitability application or failure to comply with any of the requirements of this section, the sign shall be removed from the property within twenty-four hours of the expiration of the

location suitability. The lettering on the sign must be at least six inches in height and the sign must be at least four feet by six feet in size.

The sign must state all of the following:

(a) Date location suitability was received;

(b) Date location suitability expires;

(c) The type of business, gaming licenses, and liquor licenses, if applicable, for which the location suitability was granted; and

(d) Name of the applicant and contact telephone number.

Applicants receiving approvals from the board for preliminary location suitability for both liquor and gaming do not require separate signs for each type of suitability.

Any such location suitability determination for gaming is subject to all conditions of Chapter 8.04. The applicant has the burden of convincing the board that the location is suitable for a gaming establishment at that location.

A location suitability determination does not grant or vest a liberty or property interest in or to a gaming license. A gaming license may be granted or denied depending upon applicant suitability, changing conditions, subsequent code amendments, code requirements, and board discretion at the time of the license hearing. The recipient of a location suitability determination builds or remodels at his or her own risk without recourse against the board or any of its members or staff if such location should fail to receive a gaming license or should fail to be profitable for any reason whatsoever.

Complete competing location suitability determination applications shall be presented to and reviewed by the board in the order in which they were received by the department.

The holder of an approved preliminary location suitability may petition the board to allow their site plan to change by filing an amendment to the location suitability with the director. The amendment shall not be accepted unless it is complete. A complete amendment for an approved preliminary location suitability shall include payment of an investigative fee of two hundred fifty dollars and proof of all of the following:

(a) Proper zoning approvals and if required, use permits for the license sought for the new site plan;

(b) Certified statement or diagram from a registered land surveyor stating distances from all other existing schools, churches, military reservations, teenage dancehalls and the outside edge of children's public playgrounds within a one thousand five hundred foot radius of the entry door of the proposed gaming establishment and all licensed or pending adult business establishments within a two hundred fifty foot radius. The points of measurement shall be as specified in the relevant sections of this chapter; and

(c) New/revised site plans and renderings of the proposed gaming establishment as prepared by a licensed architect or similar professional.

Applicants submitting an amendment to the location suitability for both liquor and gaming licenses may submit a certified statement or diagram from a registered land surveyor stating distances from all other existing liquor licensees (including other location suitabilities), schools, churches, military reservations, teenage dancehalls and the outside edge of children's public playgrounds within a one thousand five hundred foot radius of the entry door of the proposed gaming establishment and all licensed or pending adult business establishments within a two hundred fifty foot radius. The points of

measurement shall be as specified in the relevant sections of this chapter and those relevant sections of Chapter 8.20. An amendment of a location suitability approved by the board does not change the original date of approval for the location suitability application, nor does it interrupt the required suitability timelines as outlined in this section.

The applicant for such determination of location suitability for a gaming license must pay with the filing of the application a one thousand five hundred dollar nonrefundable location suitability investigation fee. Fifty percent of this fee may be applied toward the initial gaming licensing fee if the applicant receives its gaming license within the time period that location suitability has been obtained and remains valid and if the applicant for location suitability is the same entity as the gaming license applicant.

The applicant for a determination of location suitability for a gaming license filed in conjunction with a determination of location suitability for a liquor license must pay with the filing of the application a two hundred fifty dollar nonrefundable location suitability investigation fee in addition to any fees required in Section 8.20.115, of which none is applicable to any subsequent gaming license application. For a request for a six-month location suitability extension, an investigative fee of two hundred fifty dollars shall be paid.]

SECTION 10. Title 8, Chapter 8.20, Section 8.20.020.385 of the Clark County Code is hereby 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 provided that the tavern operation includes a bar as defined in Section 8.20.020.023 which is permanently built in and affixed, and in which at least four slot machines are embedded. 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. Minors 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.]

SECTION 11. Title 8, Chapter 8.20, Section 8.20.386 of the Clark County Code is hereby amended as follows:

8.20.020.386- Non-gaming Bar. "A "Non-gaming Bar" means an establishment with a permanent affixed "bar" as defined by Section 8.20.020.023 of this Chapter, where alcoholic liquors are sold at retail by the drink to the general public. A "Non-gaming Bar" may operate in conjunction with a Restaurant as defined by Section 8.20.020.315 of this Chapter. A "Non-gaming Bar" is not eligible for the following licenses:

- (1) Gaming;
- (2) Adult Cabaret;
- (3) Package Liquor;
- (4) Package Beer, Wine and Spirit Based Products; and
- (5) Supper Club

It is unlawful for a licensee to permit the entry of any minor onto the premises of the "Non-gaming Bar".

SECTION 12. Title 8, Chapter 8.20, Section 8.20.020.023 of the Clark County Code is hereby amended as follows:

8.20.020.023 - Bar.

A "bar" is a physical structure with a flat horizontal counter, on one side of which alcoholic liquors are kept and maintained, where seats may be placed for patrons to sit on the side opposite from where the alcoholic liquor is kept, and where the sale and service of alcoholic beverages are by the drink across such structure. The following liquor licenses permit the operation of a bar on a licensed premises: main bar, full bar, non-gaming bar, tavern, pub, nightclub, supper club, retail beer and wine and portable bar.

SECTION 13. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 14. 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 15. 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: _____

NAYS: _____

ABSTAINING: _____

ABSENT: _____

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.