

Material being deleted is [~~bracketed and struck out~~];
Material being added is underscored.

BILL NO. _____

SUMMARY – A business license ordinance to amend Title 6, Chapter 6.04 of the Clark County Code to streamline the business license regulatory approval and public safety inspection requirements for new business license applications and changes to existing business licenses; to require new business license applications for ownership changes only in the event of a 100% change of ownership; to provide for change of business license upon third party fiduciary assuming responsibility for business operations; to clarify criteria for license denials, revocations, suspensions, and nonrenewals, and to provide for appeal of such actions to a hearing officer; and to provide for other matters properly relating thereto.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 6, CHAPTER 6.04, BY AMENDING SECTION 6.04.070 AND ADDING NEW SECTIONS 6.04.071, 6.04.072, 6.04.073, AND 6.04.076 TO PROVIDE SEPARATE NOTIFICATION AND COMPLIANCE REQUIREMENTS FOR LICENSEE CHANGE OF BUSINESS NAME, CHANGE OF LOCATION, CHANGE OF OWNERSHIP, AND ADDITION OF NEW BUSINESS ACTIVITY, PROVIDING THAT A NEW BUSINESS LICENSE APPLICATION IS REQUIRED FOR OWNERSHIP CHANGES ONLY IN THE EVENT OF 100% CHANGE OF OWNERSHIP; ADDING NEW SECTION 6.04.074 TO PROVIDE FOR CHANGE OF BUSINESS LICENSE UPON THIRD PARTY FIDUCIARY ASSUMING RESPONSIBILITY FOR BUSINESS OPERATIONS; ADDING NEW SECTIONS 6.04.075 AND 6.04.077 TO REQUIRE ADDITIONAL LICENSEE NOTIFICATIONS AND TO PROVIDE PENALTIES FOR LICENSEE FAILURE TO NOTIFY; AMENDING SECTION 6.04.090 TO ELIMINATE BUILDING DEPARTMENT INSPECTION REQUIREMENT FOR NEW BUSINESS LICENSE APPLICATIONS, TO REDUCE TIME REQUIRED FOR REGULATORY REVIEW OF NEW BUSINESS LICENSE APPLICATIONS TO FIVE (5) WORKING DAYS, TO REDUCE TIME REQUIRED FOR INSPECTIONS BY PUBLIC SAFETY AGENCIES TO TEN (10) WORKING DAYS, TO PROVIDE THE DIRECTOR AUTHORITY TO REQUIRE PUBLIC SAFETY INSPECTIONS AT ANY TIME TO ENSURE THE PUBLIC WELFARE AND CODE COMPLIANCE, TO REQUIRE INSPECTING AGENCIES PERFORM INSPECTIONS OF MULTIPLE LICENSES AT A SINGLE LOCATION DURING A SINGLE INSPECTION VISIT, TO REQUIRE THAT INSPECTING AGENCIES NOTIFY THE DEPARTMENT AND PROVIDE SUPPORTING DOCUMENTATION WITHIN TEN (10) WORKING DAYS AFTER A FAILED INSPECTION, OR ISSUANCE OF A LICENSE DENIAL, CODE CITATION, OR CODE VIOLATION, TO CLARIFY CRITERIA FOR LICENSE DENIALS, REVOCATIONS, SUSPENSIONS, AND NONRENEWALS, AND TO PROVIDE FOR APPEAL OF SUCH ACTIONS TO A HEARING OFFICER; AMENDING SECTION 6.04.110 TO REMOVE BUILDING INSPECTION REQUIREMENT; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 6, Chapter 6.04, Section 6.04.070 is hereby amended to read as follows:

6.04.070 [~~Transfer of ownership,~~] C[~~e~~]hange of[~~location or~~] business name[~~---Fees~~].

Licensees shall notify the Department within thirty (30) days after the effective date of a change of business name by filing a Business License Change Form with the Department, in a format prescribed by the Director, and paying an administrative fee of twenty-five dollars (\$25.00).

Licensees must also comply with Chapter 7.24 regarding the filing of fictitious firm name certificates.

~~(a) Upon the transfer of less than fifty percent ownership of a business licensed under this title for which a license fee has already been paid, the administrative transfer fee paid by the transferee shall be twenty five dollars. The transferee shall apply for the business license and shall be entitled to receive the same upon the payment of the required fee; provided, that the transfer is approved by the director upon compliance with all provisions of this chapter.~~

~~(b) A licensee shall have the right to change the location of the licensed business, provided he shall obtain permission from the director and/or approval of the board as may be required by applicable sections of this code. A licensee shall file an application upon a form to be provided by the director who shall approve such transfer if the new location meets all the requirements of this code; and provided further, such applicant shall pay a twenty five dollar administrative transfer fee upon filing of such application.~~

~~(c) A change in and/or transfer of ownership or change in location on a licensed business shall be inspected and approved by the fire department, building department, current planning and, as applicable, the health district and animal control department to ensure safety and compliance with all applicable County Codes and Nevada Revised Statutes that are under their respective~~

~~jurisdictions. However, if a location is licensed and the new owners will be conducting the same type of business at that licensed location, compliance with this section may not be required.~~

~~(d) Changes in Corporate Owners, Officers, Directors, Members and Managers. In the case of a corporate or limited liability licensee, any and all changes in the officers, directors, members, managers or owners shall be reported to the director within twenty days of the appointment or election of such persons. Failure to so notify the director of any such changes may result in suspension, revocation, or nonrenewal of the license. All new officers, directors, members, managers, and owners must be found suitable to hold the license if so required by any applicable provision of the Clark County Code.~~

~~In the event fifty percent or more of the ownership of a licensed business is sold or otherwise transferred, it shall be deemed a sale of the business, and the license shall expire. The new owner(s) must apply for a business license as a new applicant, although a temporary license may be issued in accordance with the requirements of Chapter 6.04 of this code.~~

~~Changes of fifty percent or more in the ownership of a licensed business that is owned by, operated by and located on the premises of a resort hotel shall, however, be governed by the transfer in ownership provisions of Clark County Code Chapter 8.20.]~~

SECTION 2. Title 6, Chapter 6.04, is hereby amended by adding a new Section 6.04.071 to read as follows:

6.04.071 Change of location. (a) Except as otherwise provided in this code, licensees shall notify the Department of a change of location of a business licensed within the County, prior to such a move, by completing a Business License Change Form and paying an administrative fee of twenty-five dollars (\$25.00).

(b) Except as otherwise provided in subsection (c), the new location shall be inspected and approved, with or without conditions, limitations, performance expectations, special land use

requirements, and/or denied, if applicable, by the department of comprehensive planning, fire department, and, as applicable, the health district, department of air quality, and animal control to ensure safety and compliance with all applicable County Code and Nevada Revised Statutes that are under their respective jurisdictions. Such inspections shall be conducted in accordance with the timeframes provided in Section 6.04.090 of this code.

(c) In the event there will be no change to the structure of the premises and the immediately preceding occupant of the location was licensed by the Department for the same type of business activities and operations to be conducted by the licensee, the inspections pursuant to subsection (b) may not be required by the Department.

(d) The Director shall not transfer an existing license to a new location until all inspections required, pursuant to subsections (b) and (c), have been completed, fees remitted, and approvals obtained from any federal, state, or county agency or department as required by this code or the Nevada Revised Statutes.

SECTION 3. Title 6, Chapter 6.04, is hereby amended by adding a new Section 6.04.072 to read as follows:

6.04.072 Change of ownership requiring new business license application.

(a) Except as otherwise provided in this code, a new business license application must be filed whenever there is a one-hundred percent (100%) change in the licensed ownership of an existing business. Upon the occurrence of such a change in ownership, all business licenses issued for the business shall automatically expire. Continued operation of such businesses without obtaining a new license or licenses issued by the Department is unlawful pursuant to Section 6.04.010 of this code.

(b) A new application must meet all requirements for license approval pursuant to Section 6.04.090 of this code and, as applicable, pursuant to the individual licensing provisions of Titles 4, 5, 6, 7, 8, and Chapter 9.04 of this code.

(c) Provided the primary activities, operations, structure of the premises, and location of the business shall remain unchanged upon change of ownership, the inspections pursuant to Subsections 6.04.090 (b) and (c) shall not be required, unless such approval is required by any provision of federal, state, or local law, or is determined necessary by the Director to ensure compliance with this code and to provide for the public peace, health, safety, order, and welfare.

(d) Licensees changing the structure of their business ownership and/or changing the ownership of their business by less than one-hundred percent (100%) shall notify the Department of such changes and provide all required documentation, pursuant to Section 6.04.073.

SECTION 4. Title 6, Chapter 6.04, is hereby amended by adding a new Section 6.04.073 to read as follows:

6.04.073 Change of ownership requiring transfer of interest notification.

(a) Except as otherwise provided in this code, nothing in this chapter shall be construed to require a new application for existing licensees who are changing the structure of their business ownership without changing one-hundred percent (100%) of the licensed ownership, or for corporations or limited liability companies that are changing their business name. Whenever practicable, licensees shall notify the Department prior to such change; but in no event shall licensees notify the Department later than thirty (30) working days after the effective date of such change.

(b) Licensees changing the ownership structure of their business that are not required to file a new application pursuant to Section 6.04.072, shall be required to submit a Business License

Change Form, as supplied by the Department, and supporting documentation, and pay a twenty-five dollar (\$25.00) fee for each license held, before such transfer of ownership interest shall be recorded in the Department's files.

(c) All new owners, officers, directors, members, and managers must be found suitable to hold the license if required by any applicable provisions of this code.

SECTION 5. Title 6, Chapter 6.04, is hereby amended by adding a new Section 6.04.074 to read as follows:

6.04.074 Change due to legal assumption of owner's responsibility/authority by third-party.

(a) A Business License Change Form, as prescribed by the Director, shall be required whenever a bankruptcy, foreclosure, receivership, or other legal proceeding results in a trustee, receiver, or other third-party fiduciary assuming temporary responsibility and authority for the maintenance and operations of a licensed business or licensed business activity.

(b) The form shall be due no later than thirty (30) working days after the effective date of such change.

(c) The form must be accompanied by a twenty-five dollar (\$25.00) fee for each license held, as well as documentation establishing the following:

- (1) the nature and validity of legal proceeding;
- (2) the legal authority of the trustee, receiver, or other third-party fiduciary to assume responsibility for the licensed business or licensed business activity from the owner; and
- (3) the identity of the trustee, receiver, or other third-party fiduciary that is assuming responsibility from the owner.

(d) Provided the primary activities, operations, structure of the premises, and location of the business shall remain unchanged during the legal proceeding, the inspections pursuant to Subsection 6.04.090(c) shall not be required, unless such inspection is required by any provision of federal, state, or local law, or is determined necessary by the Director to ensure compliance with this code and to provide for the public peace, health, safety, order, and welfare.

(e) Upon approval by the Director, a new license may be issued for the business. Such license may be issued on a limited basis, such that it may contain conditions, stipulations, or limitations, and/or may be issued through a specific date, at which time the license shall expire and shall not be eligible for automatic renewal without specific approval of the Director.

SECTION 6. Title 6, Chapter 6.04, is hereby amended by adding a new Section 6.04.075 to read as follows:

6.04.075 Change due to the addition of a new business activity or line of business.

(a) Nothing in this chapter shall be construed to require a new application for an existing licensee who will be adding an additional business activity or line of business at their existing location. Licensees shall notify the Department, prior to the commencement of an additional business activity or line of business at their licensed location, by completing a Business License Change Form and paying an administrative fee of twenty-five dollars (\$25.00).

(b) Except as otherwise provided in subsection (c), the addition of a new business activity or line of business shall require a new business license. The director shall not issue the new license until all land use approvals and inspections required by this code have been completed, license fees remitted, and approvals obtained from any federal, state, or county agency or department as required by this code or the Nevada Revised Statutes.

(c) For a new business activity or line of business that requires the payment of fees on the basis of gross revenue, provided the licensee already has an approved business license requiring the

payment of fees on the basis of gross revenue, a separate license for the additional business activity or line of business may not be required. In such an event, the licensee shall not commence operation of the additional business activity or business line until the Director has granted approval of the new activity. All land use approvals and inspections required by this code must be completed and approvals obtained from any federal, state, or county agency or department as required by this code or the Nevada Revised Statutes prior to approval of the additional activity or business line by the Director.

(d) Provided that the addition of a new business activity or line of business will not result in changes to the structure of the premises, the inspections pursuant to Section 6.04.090 (b) and (c) may not be required, unless deemed necessary by the Director to ensure compliance with this code and to provide for the public peace, health, safety, order, and welfare.

SECTION 7. Title 6, Chapter 6.04, is hereby amended by adding a new Section 6.04.076 to read as follows:

6.04.076 Other changes requiring notification.

(a) The following changes shall be reported to the Department on a Business License Change Form within thirty (30) days after the effective date of change:

(1) change of mailing address;

(2) change in the officers, directors, managers of limited liability companies, or other similar managerial positions of a licensee; and

(3) change in business operations other than the addition of a new business activity or line of business, including, but not limited to, business closures, discontinuance of separately licensed lines of business, and/or cancellation or surrender of licenses.

(b) New officers, directors, and managers must be found suitable to hold the license if so required by any applicable provisions of this code.

SECTION 8. Title 6, Chapter 6.04, is hereby amended by adding a new Section 6.04.077 to read as follows:

6.04.077 Failure to notify.

It shall be unlawful for any licensee to fail to notify the Department of any of the changes set forth in Sections 6.04.070 through 6.04.076, inclusive, of this code. Failure to provide proper notification may result in penalties pursuant to Section 6.04.140 of this code.

SECTION 9. Title 6, Chapter 6.04, Section 6.04.090 is hereby amended to read as follows:

6.04.090 - Issuance—Approval—Denial—~~[Appeal of denial—]~~Suspension—Revocation—

Nonrenewal—Appeal. (a) Any business license applied for under the provisions of Titles 4, 5, 6, ~~[or]~~ 7, 8 or Chapter 9.04 of this code, the approval of which is determined by the D[~~d~~]irector or B[~~b~~]oard, may be denied, revoked, suspended, or not renewed by the D[~~d~~]irector or B[~~b~~]oard, as applicable, ~~[the approval of which is determined by the director or board, may be denied by the director or board, as applicable, due to the applicant's]~~ for any of the following reasons: (1) failure to comply with any~~[-of the]~~ provision[s] of this code; (2) failure to obtain all approvals required pursuant to subsections (b) and (c) of this section; (3) violation of any federal or state law which would be grounds for denial of the license; or (4) false, misleading, or fraudulent statements made in the application or supporting documentation.

(b) ~~[All business licenses issued under the provisions of Titles 6 or 7 of this code shall be subject to suspension, revocation or nonrenewal by the board for any failure of such licensee, his agents, or employees while engaged in the conduct of the licensed business, to comply with any of the provisions of this code.~~

(c) ~~A business license issued to any licensee under the provisions of Titles 6 or 7 of this code shall not be renewed, or shall be subject to suspension or revocation as the case may be, if such~~

~~licensees maintain or carry on any business in any building or structure which is structurally unsafe, or not provided with adequate egress, or which constitutes a fire hazard, or which is otherwise dangerous to human life or safety, or which in relation to existing use constitutes a hazard to safety or health, or public welfare, by reasons of inadequate maintenance, dilapidation, obsolescence or abandonment; or if such business is a nuisance, a menace to the public health or detrimental to the peace or morals of the county.~~

~~(d) The director shall not issue a new license or renew an existing license to any applicant to operate a business in any building location that has been determined by the building or fire department to be an unsafe building.~~

~~(e) Except as otherwise provided in subsections (d) and (e), for all n[N]ew applications, the business location will be approved, with or without conditions, limitations, performance expectations, and/or special land use requirements, if applicable, or disapproved by the current planning division of the department of comprehensive planning, based on compliance with the Uniform Development Code (Title 30), within five (5) [ten] working days from receipt of a request from the D[d]epartment.~~

~~(c[f]) Except as otherwise provided in subsections (d) and (e), for all n[N]ew applications, the business premises shall be subject to inspection or code compliance review and will be approved or denied by the [building,] fire department, and, as applicable, the health district, department of air quality, animal control, and/or other county agency or department. Each county agency or department shall issue an approval or disapproval, based on the results of their inspection or code compliance review, within ten (10) [twenty] working days from receipt of a request from the D[d]epartment. Other federal or state approvals may also be required if specifically provided for in any section of this code, [or the] Nevada Revised Statutes, or federal law, and shall, in as much as is practicable, be conducted within ten (10) working days of receipt of a request from the Department.~~

In the event an application results in the need for the fire department, health district, department of air quality, animal control, or other inspecting agency to perform an inspection of two (2) or more individual business license categories at a single business location, the applicable inspecting agency shall perform the required inspection during a single visit to the business location.

Prior to the approval and issuance of a business license, the Department may also require an inspection of the business premises by an agent of the Department.

(d) In the event a new license application is received from an applicant who will be conducting business at a location wherein the immediately preceding occupant was licensed by the Department for the same type of business activities and operations to be conducted by the applicant, and there will be no changes made to the structure of the premises, the inspections pursuant to subsections (b) and (c) may not be required by the Department.

(e) In the event a new license application is received from an applicant who will be conducting business at a location wherein another business already holds a business license for the same or similar business activities and there will be no changes made to the structure of the premises, the inspections pursuant to subsections (b) and (c) may not be required by the Department.

(f) In the event that any business fails to pass a required inspection, is issued a license or permit denial by an inspecting agency, or is issued a code citation or notice of code violation by an inspecting agency, the applicable inspecting agency shall forward notice of the inspection results as well as documentary evidence supporting the inspection results to the Department within ten (10) working days.

~~[(g) All business license applications made under the provisions of Titles 6 or 7 of this code may be denied by the director or board, as applicable, if the applicant has made false, misleading or fraudulent statements with respect to any material fact contained in the business license application and/or supporting documentation.~~

~~(h) All business licenses issued under the provisions of Titles 6 or 7 of this code shall be subject to suspension, revocation or nonrenewal by the board if the applicant has made false, misleading or fraudulent statements with respect to any material fact contained in the business license application and/or supporting documentation.]~~

(g[i]) The D[~~d~~]irector and any other officer designated by the D[~~d~~]irector shall have the power and authority to enter any store, building or other place in which such business is being conducted at any time during the business hours and have access to inspect the business for the purpose of ascertaining compliance with the provisions of the Clark County Code and any applicable franchise agreements.

(h) In order to ensure compliance with this code and to provide for the public peace, health, safety, order, and welfare, the Director shall have the power and authority to at any time require an inspection of any business by the comprehensive planning department, building department, fire department, health district, department of air quality, code enforcement, and/or other local, state, or federal agency, as applicable based on the nature of the business and/or the activities being conducted at the business location. The inspecting agency shall forward the results of the inspection, along with any applicable evidence supporting the inspection results, to the Director within ten (10) working days after the request for inspection is received from the Department.

(i[j]) New applications will be approved or denied by the D[~~d~~]irector within forty-five (45) working days of receipt of a complete application or referred to the B[~~b~~]oard for approval or denial of license as required within sixty (60) working days of receipt of a complete application unless a different time period is specifically provided within the appropriate licensing chapter.

The D[~~d~~]irector shall not approve an application without having received all approvals pursuant to subsections (b) and (c) of this section as well as [from public safety inspections, public health

~~inspections and/or~~ any other necessary investigations deemed applicable to the license ~~or as~~ provided for in ~~[Titles 6, 7, or 8 of]~~ this code.

In the ~~[;]~~ event an applicant fails to pass~~[of the failure of]~~ a public safety inspection, public health inspection or other necessary investigation deemed applicable to the license, the applicant will be notified in writing and the forty-five (45) working days allowed for license approval by the Department will be tolled to prevent a denial of the business license. The ~~[forty-five day]~~ tolling period shall remain in effect until ~~[such time that the concern is satisfactorily corrected by the applicant]~~ a subsequent passing result is issued by the inspecting agency, but in no event shall the tolling period~~[not to]~~ exceed thirty (30) working days.

(j~~[k]~~) If the D~~[d]~~irector denies, revokes, suspends, or does not renew a license, the applicant may appeal the Director's action~~[denial]~~ to a hearing officer~~[the board]~~ by filing written notice with the D~~[d]~~irector within thirty (30) days after receipt of notice of the action by the Director~~[denial]~~. After notice and hearing, the hearing officer~~[board]~~ may affirm or reverse the action by the Director~~[denial]~~ and/or condition or ~~[/]~~limit the license as the evidence may warrant. Any person aggrieved by a decision of the hearing officer may file or cause to be filed a petition for judicial review of the hearing officer decision in the District Court, as provided by Nevada Revised Statutes Chapter 34.

SECTION 10. Title 6, Chapter 6.04, Section 6.04.110 is hereby amended to read as follows:

6.04.110 - Other required approvals/licenses/certificates/permits. (a~~[+]~~) No business license shall be issued or renewed by the D~~[d]~~irector and/or approved by the B~~[b]~~oard unless the applicant has obtained all required approvals, as applicable, from the department of comprehensive planning~~[zoning]~~, fire, ~~[building,]~~health, air quality, animal control and ~~[or any]~~ other required inspecting agency~~[inspection]~~, as well as any other required license, certificate, and/or permit[s] for

the profession, occupation, or business and has, at the request of the Department, provided the D[~~d~~]epartment with documentary evidence [a copy] of the required inspection approvals, licenses, certificates, and/or permits~~[from zoning, fire, building, health, air quality, animal control or any other inspection, license, certificate or permit]~~.

(b[2]) In the event that any required license, certificate, permit, or inspection approval pursuant to Subsection (a)~~[If a zoning, fire, building, health, air quality, animal control or any other inspection, license, certificate or permit]~~ is suspended, revoked, non-renewed or relinquished, the corresponding county business license shall be automatically suspended, revoked, or not renewed~~[or relinquished]~~. The licensee must surrender the business license upon request from the D[~~d~~]epartment.

(c[3]) Should a business have multiple business licenses at a single premises, location, or establishment; the automatic suspension, revocation, or non-renewal ~~[or relinquishment]~~ of any one business license under subsections (a[1]) and (b[2]) above, shall not result in the automatic suspension, revocation, or non-renewal~~[or relinquishment]~~ of any other business license on the premises that is otherwise in compliance with its related department of comprehensive planning~~[zoning]~~, fire, ~~[building,]~~health, air quality, animal control or other inspection, license, certificate or permit.

(d[4]) Should a single business license cover more than one outlet or area within a single premises, location or establishment, only that portion of the business license connected to the outlet or area for which department of comprehensive planning~~[zoning]~~, fire, ~~[building,]~~health, air quality, animal control or any other inspection, license, certificate or permit is suspended, revoked, not renewed, or relinquished shall be subject to automatic suspension, revocation, or non-renewal~~[or relinquishment]~~.

SECTION 11. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this ordinance. It is the intent of the county commission in adopting this ordinance that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this ordinance are declared to be severable.

SECTION 12. 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 13. This ordinance shall take effect and be in force from and after its passage, and the publication thereof by title only, together with the names of the County Commissioners voting for or 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: _____

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

BY: _____
SUSAN BRAGER, Chair

ATTEST:

DIANA ALBA, County Clerk

APPROVED AS TO FORM:

JEFFREY TRULL
Deputy District Attorney