

BILL NO. \_\_\_\_\_

SUMMARY – An ordinance to amend Title 6, Chapter 6.04, regarding the imposition of a civil penalty for violation of an ordinance enacted by the Board concerning the licensing or regulation of businesses.

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

AN ORDINANCE TO AMEND TITLE 6, CHAPTER 6.04, OF THE CLARK COUNTY CODE BY AMENDING SECTION 6.04.040 REGARDING PENALTIES FOR VIOLATION OF THE CLARK COUNTY CODE REGARDING THE LICENSING OR REGULATION OF BUSINESSES; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

**WHEREAS**, the Board desires to encourage compliance with the Clark County Code as it relates to the licensing and regulation of businesses to ensure the health, safety and welfare of the county and to maintain an even and fair treatment of all businesses, and

**WHEREAS**, occasionally, some businesses do not respond appropriately or timely to warnings of violations and the process of issuing citations and appearing in court is costly and time-consuming for both the business owner and the County, and

**WHEREAS**, the Nevada State Legislature, in the 2009 Legislative Session, enacted Assembly Bill 49 that allows counties to provide for the imposition of a civil penalty in lieu of a criminal penalty for the violation of an ordinance enacted by the Board concerning the licensing or regulation of a business, unless there is a state law that provides a criminal penalty for the same act or omission, and

**WHEREAS**, the Board desires to adopt such an ordinance to impose a civil penalty in order to provide a means to achieve a more consistent compliance with licensing rules and regulations.

**NOW, THEREFORE**, 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 6.04.040 of the Clark County Code is hereby amended as follows:

**6.04.140 Penalty for violation.** (a) Except as otherwise specified, every person, firm, association, partnership, corporation, institution or agency violating any of the provisions of Chapters 4.08 and 4.09 of Title 4 and any of the provisions of Titles 6, 7 or 8 shall be guilty of a

misdemeanor and shall be punished by a fine of not more than one thousand dollars or imprisonment of not more than six months in the county jail, or by both such fine and imprisonment. A separate offense shall be deemed committed on each day during or on which a violation occurs.

In addition to the penalties above-named any person, firm or corporation convicted of wilfully violating any of the provisions of this code shall be subject to having his or its license to do business within the county revoked by the board of commissioners.

(b) Notwithstanding the provisions of Subsection (a) of this Section, a civil penalty may be imposed by a hearing officer or hearing board in lieu of a criminal penalty for violation of any ordinance enacted by the Board concerning the licensing or regulation of a business, unless there is a state law that provides a criminal penalty for the same act or omission. The penalty shall not exceed \$1,000 for each violation. Each day during or on which the violation continues constitutes a new violation. When conducting hearings the hearing officer shall follow Chapter 8.08 of the Clark County Code concerning the pleadings, admission, presumptions and procedure. All civil penalties imposed by the hearing officer or hearing board shall be remitted to the Department within 10 working days of the order and shall be used by the Department for the administration of the Unlicensed Business program.

(c) Upon the hearing officer or hearing board finding a violation has been affirmed, the hearing officer or hearing board shall levy such penalty, as provided for in Subsection (b) of this Section, and require corrective action as deemed appropriate for the violation, subject to the following:

- (1) First Offense, at least \$ 250, but no more than \$ 1,000, per day;
- (2) Second Offense, at least \$ 500, but no more than \$ 1,000, per day;
- (3) Third Offense, at least \$ 750, but no more than \$ 1,000, per day;
- (4) For any subsequent offense, \$1,000, per day.

(d) A person found to be in violation of any ordinance enacted by the Board concerning the licensing or regulation of a business, as provided for in Subsection (b) of this Section, may pay the civil penalty recommended by the Department in lieu of appearing before the hearing officer or hearing board, subject to the approval of the hearing officer or hearing board.

(e) In addition to the penalties that may be imposed by the hearing officer or hearing board, administration and/or investigation fees to cover actual costs incurred by the Department may be assessed to the person that the hearing officer or hearing board has imposed a penalty.

(f) In determining the amount of the penalty imposed pursuant to Subsection (b) of this Section the hearing officer or hearing board should give careful consideration to certain factors including, but not limited to, the following:

- (1) The economic impact to the violator.
- (2) The seriousness of the violation.
- (3) The impact of the violation on the business community.

(4) The impact of the violation on public safety, health and welfare.

(g) If payment of any imposed civil penalties is not received by the Department within 10 working days of the order, a demand for payment notice will be sent requiring payment within 5 working days of receipt of the notice. If payment is not received by the Department after this additional five-day period the case will be referred back to the hearing officer or hearing board and may result in additional penalties, issuance of a citation and/or revocation of any applicable business licenses.

SECTION 2. If any provision, section, paragraph, sentence, clause, or phrase of this chapter 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 chapter. It is the intent of the county commission in adopting this chapter 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 chapter are declared to be severable.

SECTION 3. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

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SECTION 4. This ordinance shall take effect and be in force from and after October 6, 2009, 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 \_\_\_\_\_, 20\_\_.

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

PASSED on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

AYES: \_\_\_\_\_  
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NAYS: \_\_\_\_\_  
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ABSTAINING: \_\_\_\_\_

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

BOARD OF COUNTY COMMISSIONERS  
CLARK COUNTY, NEVADA

ATTEST:

BY \_\_\_\_\_  
RORY REID, Chairman

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

APPROVED AS TO FORM:

\_\_\_\_\_  
JEFFREY TRULL  
Deputy District Attorney