

# NYE COUNTY AGENDA INFORMATION FORM

Action     Presentation     Presentation & Action

Department: Board of County Commissioners		Agenda Date:
Category: Timed Agenda Item – 10:45 a.m.		May 2, 2017
Contact: Commissioner Borasky	Phone:	Continued from meeting of:
Return to:	Location:	Phone:
<p><b>Action requested:</b> (Include what, with whom, when, where, why, how much (\$ and terms)</p> <p>Discussion and deliberation to accept a Business Impact Statement prepared pursuant to NRS 237.090 to address the business impact of Nye County Bill No. 2017-13 pertaining to Prostitution.</p>		
<p><b>Complete description of requested action:</b> (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)</p>		
<p>Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.</p>		
<p><b>Expenditure Impact by FY(s):</b> (Provide detail on Financial Form)</p> <p><input type="checkbox"/> No financial impact</p>		

## Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date
2.	Date	7. HR	Date
3.	Date	8. Legal	Date
4.	Date	9. Finance	Date
5.	Date	10. County Manager	<input checked="" type="checkbox"/> Place on Agenda <i>ST</i>

## Board of County Commissioners Action

<input type="checkbox"/> Approved	<input type="checkbox"/> Disapproved	<input type="checkbox"/> Amended as follows:
Clerk of the Board	Date	

ITEM # 9



### Business Impact Statement for Ordinance Amendment

Nye County Code Chapter 9.20 – PROSTITUTION

Comment Solicitation: March 31, 2017

Comment Period Closes: April 21, 2017

Public Meeting: May 2, 2017

The following business impact statement was prepared pursuant to NRS 237.090 to address the proposed amendment to Chapter 9.20 of the Nye County Code, amending the Prostitution ordinance for Nye County.

1. The following constitutes a description of the number and manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary. *NRS 237.090(1)(a)*

The ordinance presented for adoption amends various sections of the Prostitution ordinance as follows:

AMENDING THE DEFINITIONS; ADDING SECTION 9.20.025, PUBLIC POLICY; ADDING SECTION 9.20.027, PROSTITUTION NOT AN OFFENSE OR NUISANCE; ADDING SECTION 9.20.035, LICENSE IS A PRIVILEGE; AMENDING POWERS AND DUTIES OF THE BOARD; AMENDING WAIVER OF PRIVILEGE; AMENDING LICENSE APPLICATION FILING; AMENDING LICENSE APPLICATION CONTENTS; AMENDING LICENSE APPLICATION INVESTIGATION; AMENDING LICENSE ISSUED; AMENDING LICENSE DENIAL; AMENDING LICENSE RESTRICTIONS; AMENDING REGISTRATION OF LICENSEES AND EMPLOYEES; AMENDING LICENSE DENIAL; AMENDING HEALTH EXAMINATIONS OF PROSTITUTES AND TEST; AMENDING EMERGENCY SUSPENSION BY SHERIFF; AMENDING SUSPENSION OR REVOCATION OF LICENSE; AMENDING HEARINGS; ADDING SECTION 9.20.195, ARMED SECURITY OFFICERS PROHIBITED; AMENDING LICENSE NOT TRANSFERRABLE; AMENDING TEMPORARY LICENSE; DELETING SECTION 9.20.210, TRANSFER OF OWNERSHIP OR INTEREST; AMENDING FEES; ADDING SECTION 9.20.245, COMPLIANCE INSPECTIONS; AMENDING PENALTIES; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE HEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

Registered letters were sent to the owners of each house of prostitution. Names and addresses were obtained directly from the original license application.

Three written comments were received (attached) during the comment period.

2. The estimated economic benefit of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects. *NRS 237.090(1)(b)*

**Potential Adverse Effects to Businesses:** Various changes to the ordinance can be considered as adverse effects:

- The application fee used for background checks is increased from \$5,000 to \$7,000.
- The investigative fee for a change in manager, agent or key employee is increased from \$1,000 to \$1,500.
- The quarterly license fee has been increased to \$5,000 each calendar quarter and \$10,000 a quarter. In addition, part of the brothel's license fee, for each work card issued for a Prostitute/Sex Worker the brothel shall pay \$200.00. These fees charged to Prostitute/Sex Worker work cards shall be capped at \$10,000 a quarter or 50 cards.
- Increased the quarterly registration fee for brothel workers from \$125 to \$150.
- A one hundred fifty (\$150.00) dollar initial fee will be charged annually for all other employees, and thereafter annually on the anniversary of the date of hire.

**Potential Beneficial Effects to Businesses:** Various changes to the ordinance can be considered as beneficial effects:

- The board may issue a temporary license to an applicant for a specific period of time which entitles the person named in the application to take part in the operation of the brothel and receive profits.
- Frequent inspections performed by the Sheriff's Office will give immediate feedback of possible violations and will provide the ability to take corrective action and, in turn, will provide assistance to owner to maintain a compliant license.

**Potential Direct Effects to Businesses:** Various changes to the ordinance can be considered as direct effects:

- There is a need for hiring an additional detective to carry out increased investigative services.
- Enhanced licensing requirements will provide for stricter controls and oversight by hiring an additional detective.
- It will also lead to increased revenue for the County, which will serve the dual purpose of covering costs associated with background checks and investigations.

**Indirect Effects:** The indirect effect is that the fee increases.

- Increased inspections will increase patrols around the surroundings of the brothels.
- Increased inspections will provide for immediate assurance or confirmation of the brothel license status.

3. The following constitutes a description of the methods that the governing body of the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used: (Include whether the following was considered: simplifying the proposed rule; establishing different standards of compliance for a business; if applicable, modifying a fee or fine set forth in the rule so that a business could pay a lower fee or fine). *NRS 237.090(1)(c)*

The continued existence of the brothel industry is dependent upon public confidence and trust that licensed prostitution is conducted honestly and competitively and free from criminal and corruptive elements. Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of a licensed brothel. Strict regulation includes the necessity for background and investigative fees, and the assessment of fees and fines to ensure compliance with county ordinance and state law. No applicant has any right to receive a license, and any license issued and received is a revocable privilege to the holder thereof. Therefore, no other methods were considered to reduce the impacts on the operation.

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is: *NRS 237.090(1)(d)*

The cost to the local government is estimated at \$77,000, to fund a full time detective.

5. The proposed rules provides for a new fee or increase in an existing fee and the total amount the local government expects to collect is: *NRS 237.090(1)(e)*

Fees are being increased in this proposed amendment. Revenues for fiscal year 2015-2016 (both licenses and work cards) were \$155,000. Based on the current number of active brothel licenses (5) we anticipate increases revenues of \$25,000 per quarter. Based on the current number of active work cards (140) we anticipate increased revenues of \$3,500 per quarter.

TYPE OF FEE	FY16 BUDGET	ANNUAL VALUE OF PROPOSED INCREASE	PROPOSED ANNUAL BUDGET
Brothel License Renewals	\$85,000	\$300,000	\$300,085
Brothel Work Cards	\$70,000	\$14,000	\$84,000

6. The money generated by the new fee or increase in existing fee will be used by the local government to: *NRS 237.090(1)(e)*

The increased fees will cover the costs related to background checks and investigations and provide revenues for the county. The increased fees will also provide for standard cost increases experienced by the County on an annual basis.

7. The proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity. The following explains when such duplicative or more stringent provisions are necessary: **NRS 237.090(1)(f)**

This proposal does not change or introduce any duplication of activities.

**COUNTY MANAGER CERTIFICATION REQUIRED PER NRS 237.090(2):**

I, Pam Webster, as County Manager for the County of Nye, Nevada, hereby certify that, to the best of my knowledge and belief, the information contained in this business impact statement was prepared properly and accurately.

Dated this 27<sup>th</sup> day of April, 2017.



Pam Webster  
Nye County Manager

BOARD OF COUNTY COMMISSIONERS BILL NO. 2017-13  
PROPOSED AMENDMENTS TO NYE COUNTY CODE § 9.20  
NRS 237.080 BUSINESS IMPACT STATEMENT

by

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Las Vegas, NV 89145

Prepared for  
Board of County Commissioners – Nye County, NV  
2100 E. Walt Williams Dr., Ste. 100  
Pahrump, NV 89048

On behalf of  
Mid Valley Enterprises, LLC

April 21, 2017

**Definitions**

The "Bill": Nye County Commission Bill No. 2017-13, the subject of this assessment.

The "Board": The licensing board composed of the board of county commissioners plus the sheriff.

The "County Commission": The Nye County Board of County Commissioners.

The "County": Nye County, Nevada.

The "Licensee(s)": Individuals and/or business entities licensed to operate houses of prostitution ("Brothels") within Nye County.

Independent Contractors: Prostitutes/sex workers licensed to work in licensed brothels within Nye County.

Employees: Individuals employed by Nye County's licensed brothels who receive an annual form W-2 wages statement under United States Treasury Regulations. Specifically excluded from this definition are licensed sex workers, whose wages are reported on Form 1099-Misc. as payments to independent contractors.

The "Ordinance": The Nye County Commission ordinance which regulates prostitution, codified in the Nye County Code, Title 9, Chapter 9.20.

"Audited" Financial Statements and/or "Audit": Financial statements that have been audited by a Certified Public Accountant ("CPA") under Generally Accepted Auditing Standards ("GAAS"). A financial statement audit is the only type of engagement under which a CPA can express an opinion on the fairness of the presentation of the financial statements in accordance with Generally Accepted Accounting Principles ("GAAP").

"Compiled" Financial Statements and/or "Compilation": Financial statements that have been compiled by a CPA, who provides no assurance as to the fair presentation of the financial statements. Under this type of engagement, the CPA compiles the financial statements from accounting information that is prepared by management and expresses no opinion on the fairness of presentation of the financial statements.

Personal Financial Statements: Financial statements that have been prepared to present the net worth of an individual at a point in time and changes to the net worth of an individual over a period of time under AICPA standards.

### **Executive Summary**

The proposed ordinance to change Nye County Code § 9.20 represents a significant rewrite of the existing code section. It is our opinion that the code will impose a direct and significant burden upon existing brothels within Nye County and directly restrict the formation, operation, and expansion of brothels within Nye County. Furthermore, the ordinance is so restrictive that it is likely to put an end to the prostitution industry within Nye County. The following represent the key points and findings of our analysis:

1. The brothel industry provides a significant economic benefit to Nye County and its citizens. Mid Valley Enterprises, LLC, as an example, estimates that 98% of its revenue from sex workers comes from outside Nye County. These revenue dollars are then available for the business to spend on expenses paid to local employees and local vendors. In 2016, nearly \$1 million was spent on local employee wages and vendors located in Nye County.
2. If brothels are forced to close or to cut back on expenses in response to increased fees, jobs will be lost and unemployment will likely increase within the County and within Pahrump. The brothel industry employs hundreds of individuals living in Nye County, which already suffers from high unemployment.
3. Brothel license fees currently fund emergency services and programs for veterans. If the proposed ordinance results in the closure of brothels in Nye County, the Commission will have to raise taxes from another source to fund those programs.
4. Quarterly license fees will increase between 100% and 572% depending on the number of work cards issued to each brothel. The number of work cards issued fluctuates significantly from quarter to quarter, so the County and Licensees will be unable to accurately budget under the new structure. The ordinance currently in place works because it allows both the County and Licensees to budget for taxes. The ordinance is understood by all parties and is predictable. A simpler means to achieving the end of increasing tax revenue for the County would be an across-the-board percentage increase to fees already in place. Increasing fees under this method would provide a mechanism whereby brothels can continue to operate and benefit the local economy, the County can plan for revenue, and much-needed government services can continue to receive funding without the need to adjust the ordinance on a periodic basis.

5. Application and investigative fees would increase by more than \$100,000 due to a change to the definition of "Applicant." Every owner, shareholder, and employee at or above the manager level would be required to pay a \$7,000 fee for the initial license and would have to re-apply annually, paying another \$7,000.
6. Existing Licensees will be required to re-apply for licensing annually under the new ordinance at increased rates. We estimate the cost of re-application to be at least \$127,500 for an average brothel. Existing Licensees will be subject to significant uncertainty as retaining the license is not guaranteed.
7. In addition to the \$7,000 fee, Licensees and/or Applicants are required to present Audited Financial Statements to the Board. The additional cost of a Financial Statement Audit is estimated to be between \$85,000 and \$100,000 annually.
8. The cost of Audited Personal Financial Statements for each Applicant is difficult to estimate because there are few, if any, CPAs who prepare them. The cost could be as high as \$100,000 per applicant. Refer to Table 3.
9. The definition of "employee" includes sex workers, who are actually paid as independent contractors. This invites scrutiny from the IRS and may result in Licensees being required to pay hundreds of thousands in federal payroll taxes.
10. The new ordinance requires a new medical examination and work card every time a sex worker leaves the property. With safeguards already in place to protect the public health, this provision represents an unnecessary burden on both brothels and sex workers.

### **Summary of Business Impacts**

We estimate that the initial cost of the proposed ordinance would be approximately \$479,500 (Table A-1) for a business who is currently licensed under the 11-25 sex worker tier, who has five owner entities and/or individuals, and whose business structure includes the positions listed in Table 2. We estimate that the ongoing impact of the ordinance will be an additional \$115,000 annually (Table A-2). Refer to Tables 1-3 and the related analysis for further detail on how these numbers are calculated.

**Table A-1**  
**Initial Business Impacts**

Initial Business Impact of New Ordinance	Refer to	Estimate
Changes to quarterly fee structure	Table 1	\$ 30,000
Changes to application fee and definition of "Applicant"	Table 2	\$ 114,500
Requirement for Audited Financial Statements	Table 3	\$ 335,000
<b>Total Initial Impact</b>		<b>\$ 479,500</b>

**Table A-2**  
**Ongoing Business Impacts**

Ongoing Business Impact of New Ordinance	Refer to	Estimate
Changes to quarterly fee structure	Table 1	\$ 30,000
Requirement for Audited Financial Statements	Table 3	\$ 85,000
<b>Total Ongoing Impact (on annual basis)</b>		<b>\$ 115,000</b>

### **Scope**

Under Nevada Revised Statutes ("NRS") 237.080, a local government must allow business owners and interested parties who will be affected by a proposed rule change to submit data and arguments as to whether the proposed rule will 1) impose a direct and significant economic burden upon a business or 2) directly restrict the formation, operation or expansion of a business. We were engaged by Mid Valley Enterprises, LLC, owner and operator of Sheri's ranch to prepare a statement of the economic and business impact of the proposed Nye County Ordinance to Amend Nye County Code, Title 9 Section 20, which regulates legal prostitution within the county. The proposed ordinance includes a major re-write of the code section which proposes significant changes to the fee structure and application process for licensees. We have prepared an objective

analysis of the impact of these changes on existing brothels within Nye County. Our fees for preparing this report were paid in advance and are not contingent on the outcome of our findings.

### **Background and Qualifications**

Refer to the attachment at Exhibit 1 for a summary of the author's professional qualifications.

### **Analysis and Basis For Findings**

#### **Stakeholders**

To assess the business and economic impacts of the Bill, it is essential to identify who the stakeholders are that will be affected by its adoption. The many stakeholders who will be affected by the Bill include:

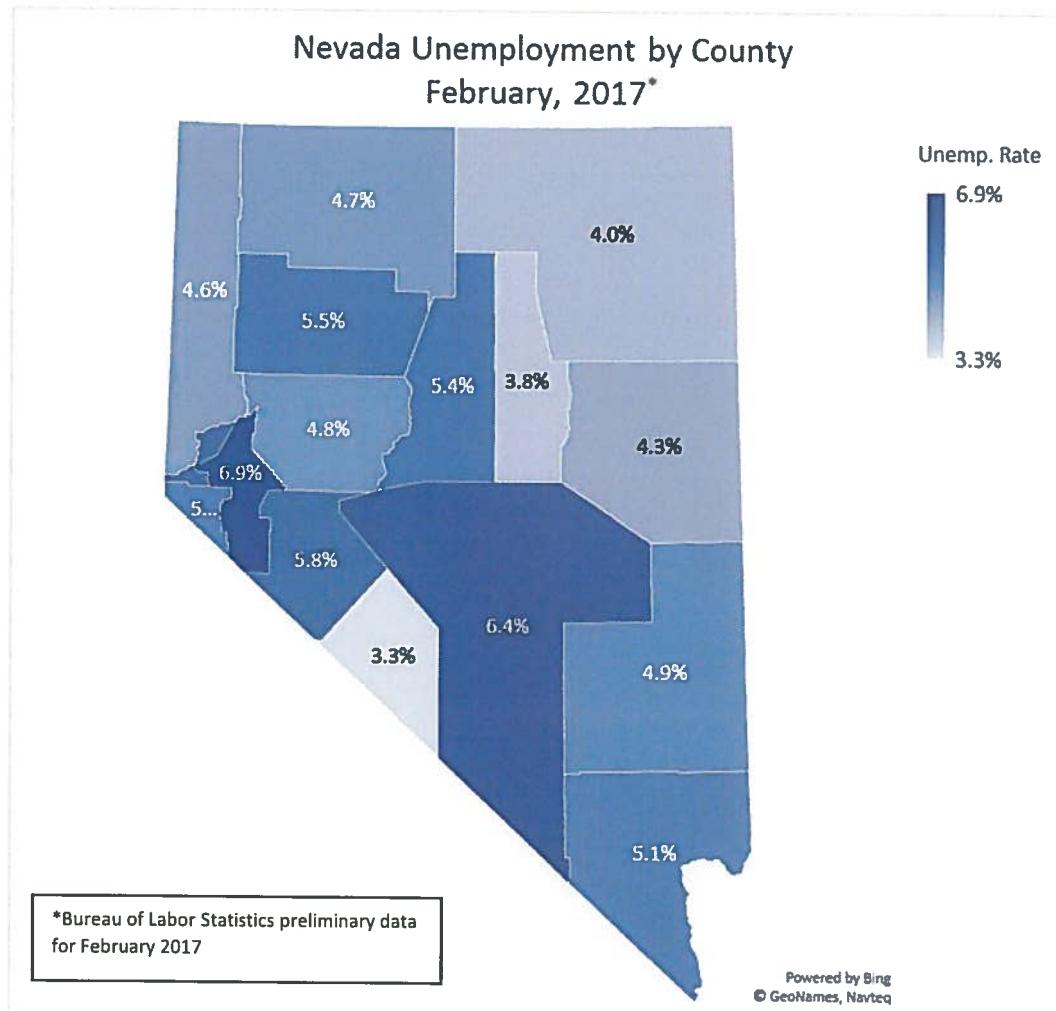
- Nye County Government
- Existing Licensees and owners
- Future Applicants
- Independent contractors and employees
- Vendors and suppliers of products and/or services
- Lenders
- Patrons
- Citizens of Pahrump
- Nye County citizens
- Nevada citizens

There are likely other stakeholders who may be impacted by the Bill; however, we believe that the stakeholders listed above are the ones who will be most significantly impacted by the changes in the Bill.

#### **Economic impact of the brothel industry in Nye County**

NRS 237.080 Business Impact Statement  
Proposed Amendments to Nye County Code §9.20  
Swarts & Swarts CPAs - April 20, 2017

The brothel industry provides a significant economic benefit to Nye County and its citizens. Mid Valley Enterprises, LLC estimates that 90% of its total revenue comes from outside of the County, and more specifically, 98% of revenue from sex workers comes from outside of the County. These revenue dollars are then available for the business to spend on local employees and vendors. In 2016, MVE spent nearly \$1 million on local employee wages and payments to local vendors and suppliers (this does not include payments to sex workers). If brothels are forced to close due to overly burdensome regulations, the impact of the loss of funds brought into the County and expended on local wages and vendors would be significant, especially within Pahrump. Millions of dollars that would otherwise have been spent within the County would no longer be available.



If brothels are forced to close and the inflow of outside money is cut off, jobs will be lost and unemployment will increase significantly within the County and within Pahrump. During 2016, Mid Valley Enterprises employed greater than 40 individuals, on average, not including independent contractors. Approximately 27 of those individuals live in Nye County. With at least four brothels currently operating within Nye County, the total number of locals employed by the industry is significant. Nye County already suffers from high unemployment. As of February 2017, the US Bureau of Labor Statistics estimated that 1,018 people are unemployed in Nye County, a 6.4% unemployment rate. That rate trails both the national average of 4.8% and the Nevada average of 5.1% and is the second lowest County in the state. Imposing burdensome restrictions on the brothel industry is likely to cause a significant increase in unemployment.

Brothel license fees currently fund ambulance services and programs for veterans. For fiscal year 2017, the County budgeted for \$70,000 from work card fees and \$85,000 in license fees, a total of \$155,000 in revenue. If the proposed ordinance results in the closure of brothels in Nye County, the Board of Commissioners will have to raise taxes from another source to fund the emergency services and veterans' programs that the brothels currently fund. The proposed ordinance would significantly increase tax revenue for the County *if* brothels are able to stay in business. However, the potential increase in taxes is likely to come at the expense of Nye County's economy. Licensees are likely to make cuts to employment and/or wages to maintain profitability under a burdensome tax structure.

**Provisions imposing a direct and significant burden on existing businesses or which directly restrict the formation, operation, or expansion of a business:**

1. Quarterly licensing fees have been increased significantly. A licensee permitted to have 0-5 sex workers on site can expect to see quarterly fees increase from \$1,875 to \$12,600 an increase of 572%. Licensees permitted to have 6 or more sex workers on site can expect to see quarterly license fees increase to the quarterly maximum fee of \$15,000, an increase of 100% for brothels with 11-25 licenses and 329% for brothels with 6-10 licenses.

Another disadvantage of the new fee structure is that it is partially contingent on the number of work cards issued to sex workers during the quarter. This number can vary greatly because a new work card must be issued to each sex worker every time she leaves the property. For example, a sex worker could have five work cards issued in a single quarter because she had five separate trips to the property. Since this is a number

that fluctuates from quarter to quarter and is not easily predictable, neither the County nor the brothels will be able to accurately budget for quarterly fees. This also provides a mechanism for brothels to manipulate license fees by requiring sex workers to stay for longer periods of time over fewer separate "stays" at the brothel.

2. The definition of "applicants" under the new ordinance has been re-written to include every owner of the entity applying to be licensed (regardless of the percentage of ownership or whether the owner participates in management), executive officers, managers/key employees, and administrative employees. Proposed NCC § 9.20.230(A) requires the payment of a \$7,000 fee for each applicant and a comprehensive background check, and an Audited Personal Financial Statement for each applicant. The cost of the background check is potentially unlimited at the Sheriff's discretion. The cost of applying for a license could increase by more than \$100,000 for a new business, plus the combined cost of the Audited Personal Financial Statements for each individual applicant.
3. The ultimate "Barrier to Entry" contained in the proposed ordinance is the annual re-application for license requirement. Existing Licensees will be required to re-apply for licensing under the new ordinance at increased rates. We estimate the cost of re-application to be at least \$120,500 for a business with similar structure to Mid Valley Enterprises, LLC (MVE), driven largely by the expansion of the definition of "applicant" discussed above. Add to that the cost of Audited Personal Financial Statements for each individual owner/key employee. There is no guarantee that existing Licensees will be allowed to retain licenses under the new ordinance and no grandfather clause to allow them to continue to operate. This provision stifles investment by creating uncertainty that would dry up investment capital and the ability to borrow. The impact of the closure of these businesses on Nye County, the local economy, employees, owners, and debtholders is substantial.
4. Licensees and/or applicants are required to present Audited Financial Statements to the Board. Under the current ordinance, Licensees and the Board have accepted Compiled Financial Statements on a tax basis of accounting as satisfactory. The proposed ordinance specifically requires Applicants to present Audited Financial Statements as defined by standards promulgated by the American Institute of Certified Public Accountants ("AICPA"). A requirement to present audited financials would increase costs by \$50,000 or more annually in CPA fees and would require significantly more time and expense

internally as the Licensees would have to prepare GAAP financial statements and spend time accommodating and responding to the auditors. We estimate that up to an additional \$35,000 to \$50,000 could be spent internally to prepare GAAP financial statements and accommodate Auditors. This provision does not benefit Nye County in any quantifiable way.

5. The new ordinance would require individual Applicants to present Audited Personal Financial Statements. Audited Personal Financial Statements are rare indeed. Individuals do not usually keep the kind of accounting records that provide the structure needed by CPA's to meet the professional reporting standards required by the AICPA and the State of Nevada. It is safe to say that most CPAs do not prepare Audited Personal Financial Statements. This requirement would be prohibitively expensive for individual applicants and would not benefit Nye County in any quantifiable way.
6. The definition of "employee" has been expanded to include sex workers, who are treated as independent contractors by existing Licensees. This potentially could provide a basis for the IRS to determine that sex workers should be treated and taxed as employees, which are subject to additional employer taxes. This determination would result in an additional tax that must be paid by the employer, which would present a significant burden to existing Licensees.
7. The new ordinance requires a new medical examination and work card every time a sex worker leaves the property. As discussed above, this brings uncertainty into the amount of fees that will be paid each quarter. In addition, it discourages brothels from allowing sex workers to leave the brothel to do personal errands and increases the fees that workers and/or brothels will have to pay for medical checkups. Medical checkups including tests for sexually transmitted diseases are already required weekly, visual checks are performed on all patrons, and contraception is required for every encounter. With safeguards already in place to protect the public health, this provision represents an unnecessary burden on both brothels and sex workers.

The proposed ordinance is a significant re-write of the code section it addresses and includes hundreds of changes to the existing code. If passed, we believe the Bill has the potential to put an end to the legalized prostitution within Nye County and/or negatively impact employment within the County. This opinion is based on consideration of the following changes:

### **Detailed Analysis of Quarterly Fees**

We have analyzed the changes in fees that can be expected at each tier of the licensing structure in Table 1, next page. As demonstrated by that analysis, small brothels will be the most severely impacted by the proposed fees and large brothels permitted to have more than 25 sex workers on-site will see significant decreases in fees. The cause of this shift is due to the form of the proposed fees. Rather than paying fees on a tiered scale, the Bill proposes to institute a fixed quarterly fee of \$5,000 plus \$200 for each work card issued, capped at a maximum of 50 work cards. The number of work cards issued to a brothel would often be a multiple of the number of sex workers allowed on-site at one time. For example, MVE, which held a license for 11-25 sex workers during 2016, had 63 independent contractors who worked in a quarter, on average. Each of those contractors had an average of three stays on property during a quarter which amounts to an average of approximately 189 separate stays by independent contractors during a quarter. Accordingly, the multiple of work cards issued compared to the maximum number of sex workers allowed on site is approximately 7.5 (189 work cards / 25 maximum). This number is possible because many girls only stay for a week or two at a time, and there are never more than 25 on-site on any given day.

Under the proposed ordinance each of the stays on-site by a sex worker would result in the issuance of a new work card and an additional \$200 fee paid by the brothel. The ordinance is ambiguous as to whether the cap applies to fees only or whether the cap also represents the maximum number of work cards that can be issued to a brothel in a quarter. If the cap also applies to the number of work cards a brothel can be issued, the proposed ordinance will significantly restrict business. As explained above, a brothel that is allowed to have 11-25 workers on site under the current rules could be expected to need nearly 200 separate work cards in a quarter. Accordingly, a reduction to 50 work cards would limit the amount of revenue that a Licensee can generate by up to 75% from current levels. This would be a disaster for Licensees and for the local economy. We prepared our analysis under the assumption that the cap of 50 applies to fees only and does not restrict the number of work cards that can be issued in a quarter. If the cap were to apply to the number of work cards, the economic impact of the proposed ordinance would be significantly worse.

Applying the 7.5 work cards per maximum girls allowed on site multiple results in estimates of a brothel with a 0-5 sex worker license being issued 38 work cards in a quarter and a 6-10 Licensee being issued 75 work cards, already above the cap of 50. Accordingly, under the proposed

NRS 237.080 Business Impact Statement  
 Proposed Amendments to Nye County Code §9.20  
 Swarts & Swarts CPAs - April 20, 2017

ordinance, all but the 0-5 tier would likely have to pay the maximum fee of \$15,000 per quarter, and the 0-5 tier would pay \$12,600. The fee changes amount to a 572% increase for the 0-5 tier, a 329% increase for the 6-10 tier, and a 100% increase for the 11-25 tier.

**Table 1**  
**Changes to Quarterly License Fees**

<b>Quarterly License Fee Under Current Ordinance</b>					
Max no. sex workers on property	[1]	0-5	6-10	11-25	
Quarterly Fee	[2]	\$ 1,875	\$ 3,500	\$ 7,500	
Annual Fee	[3]	\$ 7,500	\$ 14,000	\$ 30,000	
<b>Quarterly License Fee Under Proposed Ordinance</b>					
Fixed portion of quarterly fee	[4]	\$ 5,000			
Work card fee charged to licensee	[5]	\$ 200			
Estimated work cards issued per quarter (7.5x max of current tier)	$7.5 * \max[1] = [6]$	38	50+ (cap)	50+ (cap)	
Total fees at \$200 per work card	$[5] * [6] = [7]$	\$ 7,600	\$ 10,000	\$ 10,000	
Total quarterly fee	$[4] + [7] = [8]$	\$ 12,600	\$ 15,000	\$ 15,000	
Quarterly fee increase/(decrease) in \$ (from current ordinance)	$[8] - [2]$	\$ 10,725	\$ 11,500	\$ 7,500	
Total annual fee (quarterly fee * 4)	$[8] * 4 = [9]$	\$ 50,400	\$ 60,000	\$ 60,000	
Annual fee increase/(decrease) in \$ (from current ordinance)	$[9] - [3] = [10]$	\$ 42,900	\$ 46,000	\$ 30,000	
<b>Total annual fee increase/(decrease) as %</b>	<b><math>[10] / [3]</math></b>	<b>572%</b>	<b>329%</b>	<b>100%</b>	

Under the structure that is currently in place, both Licensees and the County can timely and accurately budget for the fees that will be paid each quarter. Under the new structure, there would be significant uncertainty since it is largely dependent on a variable that fluctuates from quarter to quarter.

Under the proposed structure, brothels would be able to manipulate the license fee by instituting policies aimed at reducing the number of work cards issued in a quarter. For example, a brothel could require all sex workers to only have one stay per quarter, rather than the average of three or more. By requiring girls to stay for longer periods of time, i.e. one three-week stay rather than three one-week stays, taxes could be reduced and sex workers would be unable to leave the property for long periods of time.

**Changes to the Definition of "Applicant"**

The definition of Applicant under the current ordinance reads, "Any person as defined in this section requesting licensing, finding of suitability, approval or consent of the board under the provisions of this chapter." The new definition is significantly different:

*Any person, firm, partnership, corporation, or business entity of any description including, but not limited to, members of any board of trustees, controlling partners, executive officers, managers/key employees or administrative employees, a director, officer or shareholder of a corporation or a member or manager or owner of a limited liability company, joint stock company, association of persons, or any combination of individuals of whatever form or character applying to the board for a license, finding of suitability, approval or consent under the provisions of this chapter.*

Since applicants are now required to pay \$7,000 "for each applicant," this could result in the payment of tens or even hundreds of thousands of dollars for a new license or for re-licensing under the new ordinance.

Under the current fee structure, Applicants for a license to operate a brothel pay a \$5,000 fee for each "Person" applying for a license as defined in the current ordinance. Typically, the Licensees have applied as corporate entities or LLCs, meaning that a single fee of \$5,000 was paid by each operation. An additional fee of \$1,000 is paid for each "manager or agent" who is required to be investigated under the current ordinance. Typically, this would be one or a small group of individuals who will oversee the day-to-day operations of the brothel. A typical operation with one manager/agent would therefore expect to pay \$6,000 for his or her investigative fee.

Under the proposed ordinance, the investigative fee will increase to \$7,000 per Applicant, which has been expanded to include every owner, officer, or director of the entity, managers, key employees, and administrative employees. These people must also go through the intensive background investigation required of Applicants. In many cases, an entity could have ten or more individuals who would fall under the umbrella of Applicants under the new definition. We performed an analysis of application/investigation fees that would be charged to a company having a similar structure to MVE (Table 2, following page). As can be seen in that analysis, a company similar to MVE could expect to pay \$120,500 under the proposed ordinance, an increase

NRS 237.080 Business Impact Statement  
Proposed Amendments to Nye County Code §9.20  
Swarts & Swarts CPAs - April 20, 2017

of \$114,500. This represents a barrier to entry that would directly restrict the formation, operation, and expansion of business.

Since the proposed ordinance also requires existing Licensees to re-apply under the new rules, these fees will also have to be paid by the brothels that are already licensed under the current ordinance. Many of the operations within Nye County are unlikely to be able to afford such a drastic fee and are likely to close rather than pay to undergo the application process all over again.

**Table 2**  
**Changes to Application/Investigative Fees**

Application/Investigative Fee Current Ordinance	No. of "Applicants"	Cost
Application/Investigative Fee	1	\$ 5,000
Manager/agent investigative fee	1	1,000
<b>Total Application/Investigative Fees</b>		<b>\$ 6,000</b>

Application/Investigative and Re-Application Fee Proposed Ordinance	No. of "Applicants"	Total Cost
Business entity "applicant"	1	7,000
Members/Shareholders	5	35,000
Officers		
President	1	7,000
Chief Operating Officer	1	7,000
Key employee	1	7,000
Managers		
Operational manager	1	7,000
Administrative manager	1	7,000
Shift manager	2	14,000
Administrative employees		
Administrative staff	1	7,000
Controller	1	7,000
IT Staff	2	14,000
Additional fee for "key employee"	1	1,500
<b>Total Potential Fees Under Proposed Ordinance</b>		<b>120,500</b>
<hr/>		
<b>POTENTIAL INCREASE IN INITIAL LICENSE FEES</b>		<b>114,500</b>

**Note:** Estimate based on a hypothetical applicant who employs the positions noted above. Application/investigative fees under the proposed ordinance would differ for each entity based on the number of "Applicants" within the business.

**Requirement for Annual Re-Application**

Existing Licensees will be required to re-apply for licensing under the new ordinance at the increased rates noted above. We estimate the cost of re-application to be at least \$120,500

for a business with similar structure to Mid Valley Enterprises, LLC (MVE), driven largely by the expansion of the definition of "applicant" discussed above. There is no guarantee that existing Licensees will be allowed to retain licenses under the new ordinance and no grandfather clause to allow them to continue to operate. If existing brothels are not re-licensed, millions of dollars of debt will go unpaid, potentially hundreds of employees would be laid off, and existing businesses will be forced into bankruptcy. The County would no longer receive the benefit of the millions of dollars in outside money that brothels bring into the County (see economic analysis section below). Even if the existing brothels are granted a license under the new ordinance, it is grossly unfair to require businesses who have already undergone the licensing process to start over under new rules and pay tens to hundreds of thousands of dollars to do so. This imposes a direct and significant burden on existing Licensees.

#### **Requirement for Audited Business and Personal Financial Statements**

The current definition of an audited financial statement reads:

*An examination of financial statements which complies with the objective of an ordinary examination of financial statements by the independent auditor, containing an expression of an opinion of the fairness with which they present financial position, results of operation and changes in financial position in conformity with generally accepted accounting principles.*

It is our understanding that the current definition has been interpreted by the Licensees and by the County Commission to mean that the Licensees must have compiled financial statements. A Compilation is a less-intensive process by which the CPA prepares financial statements from the accounting information provided by management of the Licensee. In a Compilation, the CPA does not provide any assurance that information provided by management is fairly stated, resulting in a much less-costly process than an Audit.

The proposed definition of an audited financial statement reads:

*A financial statement that has been prepared in accordance with generally accepted accounting principles and that has been audited by an independent certified public accountant in accordance with generally accepted auditing standards, including notes to*

*the financial statement that state whether or not the entity being audited is in compliance with its reserve requirements.*

The proposed definition makes it clear that the Licensee must have a Financial Statement Audit as defined by AICPA standards. If applicants and/or Licensees are required to produce Audited Financial Statements, Licensees will undoubtedly experience significant increases to two costs:

- A. Fees paid to the CPA: Due to the increased work required of a CPA under Auditing standards, we estimate that fees paid to the CPA would increase by a minimum of \$50,000 annually for a Licensee of MVE's size. Furthermore, it may be difficult to find a CPA willing to perform an audit for a business of this nature. Auditors are already subject to intense scrutiny by regulators and it may be difficult to find a CPA willing to accept the level of risk that auditing a brothel would bring to the firm.
- B. Internal costs for preparing GAAP financial statements and facilitating the Auditor's requests: Under the rules currently in place, the County Commission has accepted a compiled balance sheet and income statement prepared on an income tax basis as sufficient to satisfy Licensees' reporting requirements. If the Licensees are required to submit annual Audited Financial Statements prepared in accordance with GAAP as proposed, significant staffing costs will be incurred to prepare the adjustments and footnotes required to bring the financials into conformity with GAAP. Additionally, significant time will be required for the accounting department to prepare and provide documentation to the Auditors, respond to inquiries and requests, and record Audit adjustments. A financial reporting employee will likely need to be hired to satisfy these demands. We estimate that the change would result in additional internal staffing expense of \$35,000 to \$50,000, in addition to the cost of the CPA's fees.
- C. The proposed ordinance requires "Applicant" individuals to submit Audited Personal Financial Statements. The cost of such statements is difficult to estimate, due to the wide variety of complexity of individual holdings. It may not be possible to find a CPA willing to prepare Audited Personal Financial Statements, because it is something that is rarely done and few CPAs would be willing to assume the risk of auditing individuals, who often do not maintain sufficient personal records and documentation required for an Audit. Requiring Audited personal financial statements for Licensees is unprecedented in any area of licensing. Even gaming regulators do not require them.

NRS 237.080 Business Impact Statement  
Proposed Amendments to Nye County Code §9.20  
Swarts & Swarts CPAs - April 20, 2017

Accordingly, we estimate that each Licensee will need to bear additional costs in the \$85,000 to \$120,000 plus the cost of the Audited Personal Financial Statements, to produce Audited Financial Statements under the proposed ordinance. Total estimated costs are somewhere between \$100,000 and \$1 Million, depending on the complexity of the business and its owners' personal holdings. This presents a barrier to entry for new applicants and for annual re-applications that may prove insurmountable, and places significant economic pressure on the brothels that are already in existence.

**Table 3**  
**Cost of Audited Financial Statements**

Cost of an Audit	Low End	High End	
<b>Increase in CPA fees for audited business financial statements</b>	\$ 40,000	\$ 75,000	
<b>Increase in internal audit-related costs</b>	\$ 35,000	\$ 50,000	
<b>Cost of a personal audited financial statement (Per shareholder "applicant")</b>	\$ 20,000	\$ 100,000	
<b>Total Cost Range:</b>			
<b>For 1 "applicant"</b>	\$ 95,000	to	\$ 225,000
<b>For 3 "applicants"</b>	\$ 135,000	to	\$ 425,000
<b>For 5 "applicants"</b>	\$ 175,000	to	\$ 625,000
<b>For 10 "applicants"</b>	\$ 275,000	to	\$ 1,125,000

Respectfully submitted,



Swarts & Swarts, CPAs

April 21, 2017

## **Exhibit 1**

## GEORGE C. SWARTS, CPA

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Swarts & Swarts  
CPA's Business Advisors & Consultants  
10091 Park Run Drive Suite 200  
Las Vegas, Nevada 89145  
Office (702) 312-8111  
Fax (702) 212-1198

### **SUMMARY OF QUALIFICATIONS**

- Mr. Swarts has served as an expert witness in civil litigation in the Federal and State court systems for many years.
- Audits of private and public companies and governmental entities. Evaluation of financial feasibility of projects based on various financial constraints.
- Former gaming industry partner for the Las Vegas, NV office of Laventhal & Horwath.
- Projections of cash flow based on varying assumptions, including after tax cash flow analysis.
- Served as Examiner and Trustee in Bankruptcy Court, as Receiver in State Court and as Special Master and Receiver for the Federal District Court.
- Worked with the Atlanta and Seattle offices of the Federal Trade Commission in the administration of Telemarketing Fraud cases.
- Consultation with management regarding hotel and casino operations and compliance with gaming regulations.
- Mr. Swarts was a member of the Nevada Gaming Commission when New Jersey instituted gaming. He was involved in Nevada's approval of New Jersey as a foreign gaming district.
- Mr. Swarts served a member of the Board and Chairman of the Audit Committee of

Primadonna Resorts, Inc. (a NASDAQ Company) and as a member of the Board and Chairman of the Audit Committee of First Security Bank of Nevada (a public reporting company).

## **EDUCATION**

Bachelor of Arts, Brigham Young University - 1968

Major in Accounting

Supplemental continuing education courses.

Seminars and Workshops as attendee and presenter.

## **CAREER PROFILE**

Mr. Swarts has over thirty years' experience as a tax and financial consultant and expert witness in the real estate, medical, retail and gaming industries in the Las Vegas area. He has also worked as a lobbyist in the Nevada Legislature and represented clients before the Las Vegas City Council and the Clark County Commission. He is enrolled to practice before the Nevada Gaming Commission and Nevada Gaming Control Board. Mr. Swarts has been certified as an expert in Federal District Court, Federal Bankruptcy Court, State of Nevada District Court, and State of Delaware Superior Court. He has also served for over six years as Director and Chairman of the Audit Committee of Primadonna Resorts, Inc., a publicly held corporation.

Mr. Swarts was Partner in charge of the Gaming Industry Practice and Litigation Support for the Las Vegas office of Laventhal & Horwath. Prior to its merger with Laventhal & Horwath in 1982, he was the managing partner of Swarts, Bowler and Gamett, CPA's, a firm founded by Mr. Swarts in 1975. He is an experienced public speaker, and has delivered speeches on the Las Vegas economy and gaming industry in Las Vegas, Atlantic City, Monte Carlo, and Shannon, Ireland. He and his former partner Saul Leonard put on the Laventhal and Horwath Gaming Conference in Las Vegas and Atlantic City during Mr. Swarts' years as a partner in the firm.

In 1988, Mr. Swarts left Laventhal and Horwath and began his practice as George C. Swarts, CPA. In 1995, Curtis G. Swarts joined the firm as tax partner and the current firm of Swarts & Swarts was formed.

Today, Mr. Swarts practices primarily in litigation support as an expert witness, Special Master, and Receiver in the Nevada and U.S. District Courts.

**Published Works**

“New Federal Court Rules: Good News for Experts and Attorneys” by George C. Swarts and Kimberly McCall, January 2011.

“Legal Interest in Nevada for Financial Experts and Lawyers” by George C. Swarts and Kimberly McCall, February 2011.

“5 Things You Need to Know When Appointing a Receiver” by George C. Swarts and Curtis G. Swarts, Attorney at Law Magazine, April 2012.

“Construction Delay Damages: Liquidated or Actual?” by George C. Swarts, CPA and Kimberly McCall, CPA, CFE, Attorney at Law Magazine Greater Las Vegas, May/June 2013.

“Defending Hedonic Damages Claims in Nevada” by George C. Swarts, CPA and Kimberly McCall, CPA, CFE, Attorney at Law Magazine Greater Las Vegas, Vol. 2, No. 4, 2013.

“Unclaimed Property & You” by George C. Swarts, CPA and Kimberly McCall, CPA, CFE, CVA Attorney at Law Magazine Greater Las Vegas, Vol. 3, No. 1, 2014.

“A Forensic Accountant’s Role” by George C. Swarts, CPA and Kimberly McCall, CPA, CFE, CVA Attorney at Law Magazine Greater Las Vegas, Vol. 3, No. 2, 2014.

## **Lorina F. Dellinger**

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**From:** Marc Risman <marcrisman@calneva-law.com>  
**Sent:** Thursday, April 20, 2017 3:02 PM  
**To:** Lorina F. Dellinger  
**Cc:** Dennis Hof; Tommy N7 Mass Effect  
**Subject:** Love Ranch Vegas Argument Against the Proposed Amendments to Chapter 9.20

This office represents Dennis Hof and the Love Ranch Vegas. We first wish to thank the Nye County Board of Commissioners and their staff for their hard work in developing the proposed amendments.

There are two (2) objections that we have. The proposed amendment to determining the licensing fees will impose a direct and significant economic burden upon the Love Ranch Vegas. The proposed fee structure will quadruple (4x) the licensing fees that the Love Ranch Vegas house must pay.

Currently, the Love Ranch Vegas pays an annual \$14,000 license fee for six to ten girls. Under the new proposal, the Love Ranch Vegas will have to pay an annual \$20,000 license fee and an additional annual charge, of approximately \$33,000, based on the number of work cards issued, in 2016, to the working girls. This approximate total, of \$53,000, is almost four times as much as current fees.

We believe these proposed fee changes will impose a direct and significant economic burden upon all of the smaller brothels in Nye County. We propose that the current fee structure remain intact with a reasonable percentage increase of up to twenty percent (20%).

The proposed amendments also seek to eliminate judicial review of the Board's major decisions and actions. In Nevada the systems of this country and State are based on due process. All licensing bodies' decisions on restricted licenses are subject to judicial review. The standard for over turning a Board's decision, when invoking judicial review, is very high.

Eliminating this due process right would directly restrict the operation of business. We respectfully propose that all references stating that certain actions "are not subject to judicial review," be removed from the proposed Ordinance.

## **Lorina F. Dellinger**

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**From:** Marc Risman <marcrisman@calneva-law.com>  
**Sent:** Thursday, April 20, 2017 3:03 PM  
**To:** Lorina F. Dellinger  
**Subject:** Alien Cathouse Argument Against the Proposed Amendments to Chapter 9.20

This office represents Dennis Hof and the Alien Cathouse. We first wish to thank the Nye County Board of Commissioners and their staff for their hard work in developing the proposed amendments.

There are two (2) objections that we have. The proposed amendment pertaining to licensing fees will impose a direct and significant economic burden upon the Alien Cathouse.

Currently, the Alien Cathouse pays an annual \$7,500 license fee for one to five girls. Under the new proposal, the Alien Cathouse will have to pay \$20,000, per year, for its license and an additional annual fee, of approximately \$23,000, based on the number of work cards issued, in 2016, to the working girls. This approximate total, of \$43,000, is almost six times (6x) as much as current fees.

We believe these proposed fee changes will impose a direct and significant economic burden upon all of the smaller brothels in Nye County and lower the fees for larger operations. We propose that the current fee structure remain intact with a reasonable percentage increase of up to twenty percent (20%).

The proposed amendments also seek to eliminate judicial review of the Board's major decisions and actions. In Nevada the systems of this country and State are based on due process. All licensing bodies' decisions on restricted licenses are subject to judicial review. The standard for overturning a Board's decision, when invoking judicial review, is very high.

Eliminating this due process right would directly restrict the operation of business. We respectfully propose that all references stating that certain actions "are not subject to judicial review," be removed from the proposed Ordinance.

**BILL NO. 2017-13**

**NYE COUNTY ORDINANCE NO.**

**SUMMARY: A bill proposing to amend Title 9 of the Nye County Code, titled Public Peace, Morals and Welfare, Chapter 9.20, titled Prostitution; Providing for the Severability, Constitutionality and Effective Date Hereof, and other matters properly relating thereto.**

**TITLE: A BILL PROPOSING TO AMEND TITLE 9 OF THE NYE COUNTY CODE, TITLED PUBLIC PEACE, MORALS AND WELFARE. CHAPTER 9.20, TITLED PROSTITUTION, BY AMENDING THE DEFINITIONS; ADDING SECTION 9.20.025, PUBLIC POLICY; ADDING SECTION 9.20.027, PROSTITUTION NOT AN OFFENSE OR NUISANCE; ADDING SECTION 9.20.035, LICENSE IS A PRIVILEGE; AMENDING POWERS AND DUTIES OF THE BOARD; AMENDING WAIVER OF PRIVILEGE; AMENDING LICENSE APPLICATION FILING; AMENDING LICENSE APPLICATION CONTENTS; AMENDING LICENSE APPLICATION INVESTIGATION; AMENDING LICENSE ISSUED; AMENDING LICENSE DENIAL; AMENDING LICENSE RESTRICTIONS; AMENDING REGISTRATION OF LICENSEES AND EMPLOYEES; AMENDING LICENSE DENIAL; AMENDING HEALTH EXAMINATIONS OF PROSTITUTES AND TEST; AMENDING EMERGENCY SUSPENSION BY SHERIFF; AMENDING SUSPENSION OR REVOCATION OF LICENSE; AMENDING HEARINGS; ADDING SECTION 9.20.190, EXCLUDED PERSONS, BLACK LIST; ADDING SECTION 9.20.195, ARMED SECURITY OFFICERS PROHIBITED; AMENDING LICENSE NOT TRANSFERRABLE; AMENDING TEMPORARY LICENSE; DELETING SECTION 9.20.210, TRANSFER OF OWNERSHIP OR INTEREST; AMENDING FEES; ADDING SECTION 9.20.245, COMPLIANCE INSPECTIONS; AMENDING PENALTIES; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE HEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO**

**WHEREAS, NRS 201.354 states that it is unlawful for any person to engage in prostitution or solicitation except in a licensed house of prostitution; and**

**WHEREAS, any license issued and received is a revocable privilege personal to the holder thereof; and**

**WHEREAS, the board finds that in the interests of the public health, safety, and general welfare of the people of Nye County and to promote the orderly conduct of the operation, it is necessary to impose regulations and restrictions on houses of prostitution;**

**NOW THEREFORE, the Board of Commissioners of the County of Nye, State of Nevada, does hereby adopt, promulgate and order compliance therewith the following regulations:**

## Chapter 9.20

### PROSTITUTION

#### **9.20.010: ADOPTION:**

The adoption of this chapter provides for the licensing and regulation of prostitution; for revenue and regulation; prohibits any prostitution ~~outside an incorporated city~~ in Nye County, except as conducted in accordance with the provisions of this chapter; declares that prostitution conducted in accordance with the provisions of this chapter does not constitute a public offense; ~~and or~~ nuisance; and is designed to promote public trust through strict regulation which will protect the public health, safety, morals and welfare of the residents of the county. (Ord. 434, 2012)

#### **9.20.015: SHORT TITLE:**

This chapter shall be known and can be cited as the Nye County Brothel Ordinance.

#### **9.20.020: DEFINITIONS:**

For the purpose of this chapter, the following words and phrases have the meanings respectively ascribed to them by this section:

**APPLICANT:** Any ~~"person" as defined in this section requesting licensing, firm, partnership, corporation, or business entity of any description including, but not limited to, members of any board of trustees, controlling partners, executive officers, managers/key employees or administrative employees, a director, officer or shareholder of a corporation or a member or manager or owner of a limited liability company, joint stock company, association of persons, or any combination of individuals of whatever form or character applying to the board for a license,~~ finding of suitability, approval or consent ~~of the board~~ under the provisions of this chapter.

**AUDITED FINANCIAL STATEMENT:** ~~An examination of A financial statements which complies with the objective of an ordinary examination of financial statements by the independent auditor, containing an expression of an opinion of the fairness with which they present financial position, results of operation and changes in financial position in conformity statement that has been prepared in accordance~~ with generally accepted accounting principles and that has been audited by an independent certified public accountant in accordance

with generally accepted auditing standards, including notes to the financial statement that state whether or not the entity being audited is in compliance with its reserve requirements.

BANKING AND FINANCIAL INSTITUTIONS: Any bank, savings and loan association, savings bank, thrift company, credit union, or other financial institution that is licensed, registered or otherwise authorized to do business in Nevada.

BOARD; LICENSING BOARD: The board of county commissioners and the sheriff.

~~BROTHEL: Any establishment~~BROTHEL or HOUSE OF PROSTITUTION Any non-mobile, stationary place of business, including any house, building, or other structure or "premises" as defined in this section having a source of income or compensation derived from the practice of "prostitution" as defined in this section, ~~and which has a fixed place of business~~ where any person engages in or carries on sex-for-hire services or any of the associated activities as defined in the definition of "house of prostitution" of allowed and approved under this ~~section~~chapter. The terms Brothel and House of Prostitution may be used interchangeably, and are intended to have the same meaning.

BUSINESS ASSOCIATE: A partner or colleague who works for and/or worked with the applicant in business and/or profession.

CERTIFIED PUBLIC ACCOUNTANT: A person possessing a current ~~certified public accountant~~ certificate from the ~~Nevada~~ state board of accountancy ~~to conduct business in Nevada as~~

CHURCH: A building in which persons regularly assemble for worship, intended primarily for purposes connected with faith, or, for a ~~certified public accountant~~ particular belief.

CLERK OF THE BOARD: The county clerk.

COUNTY: The county of Nye, state of Nevada.

EMERGENCY: A sudden or unexpected, ~~unplanned~~ or unforeseen health or safety hazard calling for immediate action or remedy to safeguard the public health, safety, morals or welfare of the inhabitants of the county.

EMPLOYEE: Any person engaged in an act or acts of prostitution, or any person employed for any~~maintenance, repair, bartending, cooking, housekeeping, chauffeurs or any other purpose related to the operation of the~~ licensee, whether actually employed as an independent contractor or otherwise by such licensee, or any person engaged in the management, sale or in any way represents representation of or is held out as representing the interests of a "~~house of prostitution~~"brothel as defined in this section.

ESCORT: Any person who, for a compensation of any type, accompanies any other person to social affairs, places of entertainment or amusement, or within any private quarters outside of a brothel.

FEE: License fee, application/fee, investigation fee, and registration fee.

HOUSE OF PROSTITUTION: Any ~~house, building, trailer (with or without wheels), vehicle, tent or other structure~~ /or "premises" as defined in this section wherein or whereon acts of prostitution are committed, or offered to be committed work card fee.

KEY EMPLOYEE: See "Manager/Key Employee".

LICENSE: A license issued by the board authorizing a personan applicant to operate a ~~house of prostitution~~brothel.

LICENSED OPERATION LOCATION: Premises deemed by the board to be suitable locations for a house of prostitution in accordance with the provisions of this chapter.

LICENSED OPERATION OR OPERATION: A ~~house of prostitution~~brothel duly licensed and operated in accordance with the provisions of this chapter.

LICENSEE: The personapplicant to whom a license has been issued to ~~own or~~ operate a "~~house~~brothel as defined in this section.

MANAGER/KEY EMPLOYEE: A person, other than the licensee, having authority given him/her by the licensee to conduct the regular business affairs of any brothel licensed under this chapter.

OPERATIONAL CONTROL: The control of or the ability to control, any substantial business decision involving a brothel.

OUTDATE: Any arrangement or arrangements whereby a prostitute and a patron meet at a location other than the licensed premises for the purpose of engaging in an act of prostitution "~~as defined in this section~~".

OUTCALL SERVICES: Any arrangement or arrangements of services of a type performed by a prostitute outside of the premises of a brothel.

PATRON: Any person twenty-one (21) years of age or older who provides compensation to a prostitute for any act or acts of prostitution.

PERSON: Any natural person, partnership, limited partnership, firm, association of persons, joint stock company, corporation or combination of individuals of whatever form or character.

PREMISES: Each and every part or area of ~~houses of prostitution~~a brothel as defined in this section, including the real property and all improvements and structures thereon, where ~~houses of prostitution are~~a brothel is located.

PROSTITUTE: ~~Any person who, in the course of any employment, either directly or indirectly, engages in acts of "prostitution" as defined in this section.~~

PROSTITUTION/SEX WORKER: A male or female person, twenty-one (21) years or older, who for a fee engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

PROSTITUTION: The act or acts, practice or occupation of engaging in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person for a fee.

REGISTRANT: Those ~~persons and~~licensees or employees required to register with the ~~board and/or sheriff~~Sheriff's office under the provisions of this chapter.

REGULAR MEETINGS OF THE BOARD: Shall be held on the first and third Tuesdays of ~~the first and third consecutive Tuesdays and Wednesdays of~~ each month.

SANCTIONS: Limiting, suspending, restricting or revoking a license and/or ~~registration~~work card.

SCHOOLHOUSE: An institution for educating children, including an academic, vocational, technical, business or other school offering educational credentials, diplomas or certificates, or offering instruction or educational services. This term includes all grades from kindergarten through the twelfth grade.

SEX WORKER: See "Prostitute/Sex Worker."

SEXUAL CONDUCT: Any ~~of the acts defined in the definition of "prostitution" of this section~~ legal act between consenting adults which brings sexual gratification.

SHERIFF: The Sheriff of Nye County.

SOLICITATION: ~~Any person who~~ The act of:

- A. ~~Induces, persuades, encourages, inveigles or compels~~ Inducing, persuading, encouraging, inveigling or compelling a person to engage in "sexual conduct" as defined in this section; or
- B. ~~Offers~~ Offering to engage in "sexual conduct" as defined in this section. (Ord. 434, 2012)

SPECIAL USE PERMIT: In accordance with Nye County Chapter 17.10.

WORK PERMIT or WORK CARD: Documentation issued by the sheriff's office of the county to persons who qualify to be employees or independent contractors of a brothel.

#### 9.20.025: PUBLIC POLICY:

The board hereby finds, and declares to be the public policy of Nye County, that:

- A. The continued existence of the brothel industry is dependent upon public confidence and trust that licensed prostitution is conducted honestly and competitively and free from criminal and corruptive elements.
- B. Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of a brothel.

C. All establishments where prostitution is conducted must therefore be licensed and controlled to protect the public health, safety, good order and general welfare of the inhabitants of the county.

D. All key employees, prostitutes and every other employee of a brothel must therefore be registered and controlled to protect the public health, safety, good order and general welfare of the inhabitants of the county.

#### **9.20.027: PROSTITUTION NOT AN OFFENSE OR NUISANCE**

The operation of a brothel within Nye County in accordance with the provisions of this chapter does not constitute a public nuisance or offense to public decency.

#### **9.20.030: LICENSE REQUIRED:**

Any person who engages in prostitution or operates a ~~house of prostitution~~brothel without first having obtained a license and having paid the license fee as provided in this chapter is guilty of a misdemeanor. (Ord. 434, 2012)

#### **9.20.035: LICENSE IS A PRIVILEGE**

No applicant has any right to receive a license, and any license issued and received is a revocable privilege personal to the holder thereof, and such holder acquires no vested right therein or thereunder, and the same shall not be transferred without prior approval of the board.

#### **9.20.040: LICENSING BOARD CREATED:**

**A.** Pursuant to the statutory authority contained in Nevada Revised Statutes 244.345, a licensing board is created, composed of the board of county commissioners and the sheriff of the county.

#### **B. 9.20.050: POWERS AND DUTIES OF BOARD:**

A. It shall be the duty of the board to carry out the terms and provisions of this chapter, and to see that this chapter is faithfully enforced. ~~(Ord. 434, 2012)~~

#### **9.20.050: POWERS AND DUTIES OF BOARD:**

~~The~~ B. The board has the sole authority to grant a license to operate a brothel and the sole authority to determine which licenses may be granted, transferred, limited, suspended, revoked, or canceled.

C. Powers of the board ~~shall~~ include, but ~~shall~~are not be limited to, ~~the following:~~  
~~The board is empowered and commissioned to act without additional compensation to the board or the clerk,~~power to:

A. 1. Receive all license applications by and through the Sheriff's office;

2. Request the sheriff or his/her office to process all applications;

3. Fix, impose and collect fees as provided in this chapter;

B. 4. Grant applications for licenses or deny applications for licenses ~~and~~without refund of any monies previously thereto paid by, or for, such application;

5. Enforce or impose conditions, limitations and restrictions upon the licensee as provided in this chapter;

C. Adopt, amend and repeal regulations relating to licenses and licensees;

D. Restrict 6. Limit, revoke ~~or~~, suspend or cancel licenses for cause, after a hearing, as provided in this chapter, ~~without refund of any monies previously thereto paid by, or for, such license.~~ In an emergency, the board may issue an order for immediate suspension or limitation of a license, but the order must state the reason for suspension or limitations and afford the licensee a hearing as provided in this chapter; ~~the Sheriff with the concurrence of the chairman or, if the chairman is not available, the vice-chairman, may act for the board in an emergency.~~ The hearing shall take place as soon as administratively possible.

E. The board shall hold a hearing before adopting proposed regulations, before adopting amendments to regulations, and before repealing regulations relating to the control or the licensing as herein provided;

~~F. Notice of such hearing must be published in a newspaper published and having general circulation in the county at least once a week for a period of two (2) weeks before the hearing;~~

~~G. Upon adoption of new regulations, the board shall designate their effective date, which may not be earlier than fifteen (15) days after their adoption. Immediately after adoption a copy of any new regulations must be available for public inspection during regular business hours at the office of the county clerk;~~

~~H. D. A majority vote of the members of the board present governs in the transaction of all business.constitutes a quorum to conduct a meeting. A majority of the members constitutes a quorum for the transaction of business of the board are required to take of action. An abstention may not count as vote in favor of an action. (Ord. 434, 2012)~~

#### **9.20.060: APPLICATION GENERALLY:**

~~A. It is the declared policy of the board that all establishments, where houses of prostitution are conducted or operated, are licensed and controlled so as to better protect the public health, safety, morals, good order and welfare of the inhabitants of the county.~~

~~B. Any license which is issued, or registration, or finding of suitability, or approval by the board shall be deemed to be a revocable privilege and no person holding such a license or registration, or finding of suitability, or approval of the board is deemed to have acquired any vested rights therein.~~

~~C. A. An applicant for a license is seeking the granting of a privilege, and the burden of proving their qualifications to receive a license is at all times on the applicant. An applicant must accept any risk of adverse public notice, embarrassment, criticism or other action of financial loss which may result from action with respect to an application and expressly waivewaives any claim for damages as a result thereof.~~

~~D. B. An application for a license, determination of suitability or registration, shall constitute a request to the board for a decision upon the applicant's general suitability, character, integrity and ability to participate or engage in, or be associated with, ~~houses of~~~~

~~prostitution~~brothels in the manner or position sought by the application. By filing an application with the board through the sheriff's office, the applicant specifically consents to the making of such a decision by the board. (Ord. 434, 2012)

#### **9.20.070: WAIVER OF LICENSE APPLICATION, PRIVILEGE:**

An applicant may claim any privilege afforded by the constitution of the United States, or of the state, in refusing to answer questions by the board. However, a claim of privilege with respect to any evidence or testimony pertaining to an application may constitute sufficient grounds for denial of a license. (Ord. 434, 2012)

#### **9.20.080: LICENSE APPLICATION; FILING:**

A. Every person wishing to engage in the business of conducting a ~~house of prostitution outside an incorporated city~~brothel in Nye County must:

~~A. Make application~~ 1. Apply to the board for a license ~~in on~~ such form ~~prescribed as has been pre-approved~~ by the board and provided by the Sheriff;

~~B.~~ 2. File the application, with the application ~~/ fee~~, investigation fee and the required license fee, with the ~~county license collector, as provided in chapter 364 of Nevada Revised Statutes~~Sheriff, who shall present the application to the board at its next regular meeting;

~~C.~~ B. Upon presentation ~~and filing~~ of such license application ~~with~~by the Sheriff to the board, the board ~~shall refer such~~may request the Sheriff to process the application ~~to the sheriff for investigation~~ to determine suitability for approval or consent of the board to receive a license. (Ord. 434, 2012)

#### **9.20.090: LICENSE APPLICATION; CONTENTS:**

A. The application shall be made upon ~~such~~Sheriff's forms as approved by the board ~~may prescribe~~ and shall contain at least the following information and minimal requirements for a license:

**A.** 1. Names, ages and addresses of all persons who will have any interest in the operation and/or premises, including, but not limited to, interests set forth in subsection **K8** of this section;

**B.** 2. Names, ages and addresses of persons who, in addition to the licensee, are or will be personally responsible for the conduct and management of the operation, **in addition to the licensee**; including but not limited to managers/key employees.

**C.** 3. Names and addresses of every other business in which the applicant has any financial interest, including the type of business and the nature of the applicant's interest;

4. Names and addresses of all employers of the applicant in the preceding ten (10) years;

5. A list of all prior arrests and prior convictions of the applicants for any crime, which list shall include a statement of the offense, the date and place of its occurrence, and/or date and place of convictions;

6. The business history of the applicant; whether such applicant; has ever had a business and /or privilege license revoked in the past, stating the reason and the entity revoking the license.

7. A legal description of the property upon which the proposed operation is to be conducted, together with copies of all deeds, mortgages, deeds of trust, liens or other encumbrances, leasehold interests or any other financial, leasehold or ownership interests relating to the premises;

8. Any other information reasonably deemed necessary by the board and/or the sheriff's office;

9. The applicant shall sign and verify under penalty of perjury, the application, and any waivers or releases requested;

B. Each application shall be accompanied by the following:

1. A nonrefundable application fee, investigation fee and license fee as provided in this chapter;

2. At the time of application a photograph and a complete set of fingerprints of all persons listed in subsections A and B of this section will be taken by the sheriff of the county; at the time the application is filed;

~~D. Names and addresses of every other business in which the applicant has any financial interest, including the type of business and the nature of the applicant's interest;~~

~~E. Names and addresses of all employers of the applicant in the preceding ten (10) years;~~

~~F. All of the applicant's addresses for the preceding ten (10) years;~~

~~G. A list of all prior arrests and prior convictions of the applicant for any crime, which list shall include a statement of the offense, the date and place of its occurrence, and/or date and place of convictions;~~

~~H. 3. A complete and accurate audited financial statement of the applicant, which statement shall be current within six (6) months prior to filing, and supported by documents acceptable to the board;~~

~~I. Business, occupation or employment of the applicant for the ten (10) years immediately preceding the date of application;~~

~~J. The house of prostitution business history of the applicant; whether such person, in previously operating in this or another city, county or state, has had any business license, or privilege license, revoked or suspended, the reason therefor, and the business activity or occupation responsible for such action of suspension or revocation;~~

~~K. A legal description of the property upon which the proposed operation is to be conducted, together with copies of all deeds, mortgages, deeds of trust, liens or other~~

~~encumbrances, leasehold interests or any other financial, leasehold or ownership interests relating to the premises;~~

~~L. Any other information deemed necessary by the board;~~

~~M. The applicant shall sign and verify under penalty of perjury, the application, and any waivers or releases requested;~~

~~N. Each application shall be accompanied by a nonrefundable application/investigation fee and license fee as provided in this chapter;~~

~~O. C.~~ If the applicant is a Nevada corporation, or LLC, the name of the corporation shall be set forth exactly as shown in its articles of incorporation filed with the secretary of state. If a foreign corporation, or LLC, the name shall be set forth exactly as shown on its certificate of good standing to do business in Nevada, issued by the secretary of state, together with the name and address of the resident agent, names and residence addresses of each of the officers, directors and each stockholder holding stock in the corporation, and the key employees. If the applicant is a partnership or limited partnership, the application shall set forth the name and residence address of each of the partners, including limited partners, and the key employees. If one or more of the partners, including limited partners, is a corporation, the provisions of this subsection pertaining to a corporate applicant shall apply;

~~P. D.~~ Every person applying for a license to carry on or transact business under an assumed or fictitious name or designation which does not show the real name or names of the corporation or ~~persons~~person or persons engaged or interested in such business, must file with the county clerk, a certificate containing the information required by Nevada Revised Statutes 602.020;

~~Q. E.~~ No application shall be deemed to have been filed until such time as it is complete in all respects, and the board may reject ~~for filing~~ any application not ~~completed~~complete on its face;

~~R. F.~~ Any applicant whose ~~place of business~~brothel will be ~~conducted~~operated by a manager ~~or agent~~key employee must provide all of the information required in this section for and about the designated manager/key employee ~~or agent~~. Any person or entity which, as of

~~the effective date hereof, holds a brothel license, and whose place of business is conducted by a manager or agent, at the next time for renewal of that license, must submit an amended application which includes all of the information required in this section for and about the designated manager or agent.~~ Whenever the manager or agent/key employee who is conducting the business of a brothel changes, the holder of the brothel license ~~forthwith~~ must inform the sheriff of the change in writing within twenty-four (24) hours, and must submit to the Sheriff ~~all of the information required by this section for and about the~~a new ~~manager or agent~~application and must pay an additional nonrefundable application fee for each ~~designated~~new manager/key employee within fifteen (15) days of the change. (Ord. 434, 2012) The information will be submitted on the forms provided by the sheriff. Other changes to the application must be updated at the time of the next annual renewal.

#### **9.20.100: LICENSE APPLICATION; ~~INVESTIGATION~~ PROCESSING:**

A. The sheriff shall ~~conduct~~process all applications, including conducting a full investigation of all information pertaining to the license application, which investigation must include:

1. A complete check of all records of the federal bureau of investigation and other appropriate criminal justice agencies concerning the criminal history of the applicant;
2. An interview with each applicant, such interview may be personal, by telephone or mail as determined by the sheriff;
3. An interview, either personal, by telephone or by mail, with all ~~managers/key employees stated on the license application. All other employees, business associates, and prior or current employers of the applicant and business associates of the applicant, as shown by~~stated on the license application will be interviewed at the discretion of the Sheriff;
4. Examination of the audited financial statement and financial background of the applicant;
5. Any other investigation deemed necessary or useful by the sheriff.

~~B. After an application is referred by the board~~ A loan related to the brothel equal to or greater than twenty-five thousand dollars (\$25,000) must be reported to the sheriff, and a copy of loan documents must be provided to the sheriff within thirty (30) days of the date the loan is funded or the borrower receives money from the lender, whichever is earlier.

C. INVESTIGATION FEE:

1. The sheriff may, with the approval of the board, employ a certified public accountant to assist with the financial investigation and the fees, costs and/or expenses of such accountant shall be chargeable to the applicant who shall be required to post in advance with the Sheriff an amount to cover the estimated expense.

2. In the event the costs and/or expenses of an investigation conducted under the provisions of this section exceeds the investigative fee required of the applicant, the applicant shall, upon request of the board, post with the Sheriff an amount sufficient to cover the estimated additional costs and/or expenses.

3. At the conclusion of the investigation any unused additional investigative fees which the applicant was required to deposit shall be refunded.

D. After the Sheriff has finished processing an application, the sheriff shall issue a written report ~~upon it, in writing~~ the findings, at the ~~following regular~~ next regularly scheduled meeting of the Board, or as soon thereafter as may be ordered by the board, which report shall include, but not be limited to, the following:

1. A complete statement of the status or results of all investigations undertaken;
2. A list of any errors or omissions found to exist in the application;
3. An evaluation of the personal and financial status and background of the applicant.

~~C. E.~~ After receiving the sheriff's report, the board shall at that meeting grant or refuse to grant the license ~~prayed applied~~ for or enter any other order consistent with this chapter, including, but not limited to:

1. Refer the application back to the sheriff for additional investigation;
2. Require a personal interview with the applicant;
3. Require the applicant to submit additional information relative to the application;
4. Limit, or condition a license under the provisions of this chapter.

**D. F.** The applicant shall have until the next regular meeting of the board to furnish such additional information to the board, or to appear for a requested personal interview by the board. (Ord. 434, 2012)

#### **9.20.110: LICENSE; ISSUED:**

**A. The board, as defined in this chapter, is the full and sole authority empowered to grant a license to operate a house of prostitution, and the sole authority to make, alter and rescind all necessary ordinances or regulations setting forth the terms and conditions upon which such licenses may be applied for, the terms and conditions under which such licenses shall be granted, revoked, limited or canceled, and any and all other ordinances or regulations necessary regarding the conditions under which said houses of prostitution may be allowed to operate.**

**B. The board has the sole authority to cancel and rescind any and all such licenses for cause, after hearing, as provided in this chapter, without refund of any monies previously thereto paid by, or for, such license.**

**C. Upon approval of all applications connected with a house of prostitution, the board may issue a license, which license shall state:**

**A. Upon approval of a Brothel application, the board may issue a license, which license shall state:**

1. The ~~names~~name and ~~addresses~~address of ~~all~~licensees~~the~~ licensee connected with the operation;
2. The name, address ~~or~~and location of the operation;

3. Any restrictions or limitations imposed by the board;
4. The date of issuance of the license; and
5. The date of expiration of the license;

**6. B.** All licenses shall be issued ~~for a quarterly period; on an annual basis.~~

**7. C.** Thirty (30) days before the expiration date of any license, licensees shall apply to the sheriff on the form provided for renewal;

**8. D.** Failure of any licensee to apply for a renewal, as required in subsection ~~C7C~~ of this section, shall be given a 10 day notice to pay and shall be assessed a fine of one hundred percent (100%) of renewal fee. Failure to pay after that shall result in an automatic revocation of the license on the expiration date thereof. Any license thus revoked may be reinstated only upon compliance by the licensee with the requirements of this chapter relating to original license application and issuance;

**9. E.** The issuance and acceptance of a license shall constitute an undertaking and agreement by the licensee and his ~~agents~~managers/key employees and employees, and specifically including employees that are registered under section 9.20.140 of this chapter, that they will be bound by the terms, conditions and provisions of this chapter, and any regulations as may at any time hereinafter be made, enacted or adopted by the Board of County Commissioners, and shall include a consent to, and an ~~acknowledgment~~acknowledgement of the power and authority of, the sheriff, health officer, district attorney or any other duly authorized agents thereof, to enter the premises to which the license applies, at any time during the day or night, without reservation, and to have access to any and all persons within or on the premises, or any part thereof, for the purpose of examining the premises and ensuring compliance with the terms of this chapter, and that withholding access or in any way inhibiting or limiting access to the premises as described hereinabove by the licensee, his agents and employees, shall constitute cause for the board to ~~revoke~~limit, suspend, or ~~rescind~~revoke the license, or to take other action as the board deems appropriate;

**10. No applicant has any right to receive a license, and any license issued and received is a revocable privilege personal to the holder thereof, and such holder acquires no**

~~vested right therein or thereunder, and the same shall not be transferred without prior approval of the board;~~

**11. F.** Any license issued under the provisions of this chapter is for the purpose of maintaining a ~~licensed house of prostitution~~brothel only, and does not entitle the holder thereof to sell, dispense or give away any alcoholic beverages. (Ord. 434, 2012)

#### **9.20.120: LICENSE DENIAL:**

~~The board may refuse to grant a license to any applicant:~~

**A. Who has been convicted** A. In conformity with the policy of this chapter, the following persons are declared not to be qualified to hold a license under the provisions of this chapter:

1. A person who is under the age of twenty-one (21) years;
2. A person who has been convicted within the past ten (10) years of a felony as defined in Nevada Revised Statutes.
3. A person who, at the time of application for renewal of a brothel work card would not be eligible for the license upon a first application; or
4. A person whose license has been revoked for failure to report disease or for criminal activity or other violation of regulations governing brothels, or revoked for any other cause, whether in this county or in another jurisdiction.

B. An applicant otherwise barred by the provisions of subsection A of this section may be found suitable, if on review of the denial of a license, the board finds upon examination of the circumstances of the crime or the revocation, as the case may be, and upon examination of the applicant's criminal history, that the applicant does not present, and is not likely to present in the future, a threat to public safety, morals and welfare, and will likely abide by all applicable regulations.

C. The board may refuse to grant a license to any applicant:

1. Who has been convicted of a felony;

**B. 2.** Who is financially insolvent or who has undergone a prior bankruptcy proceeding filed by or against him that resulted in creditors receiving less than the total amount of money owed them;

**C. 3.** Who has a history of financial instability;

**D. 4.** Whose stated financial condition is inadequate or insufficient to operate a ~~house of prostitution~~~~brothel~~;

**E. 5.** Who makes any untrue statement of a material fact in any application, notice, statement or report filed with the board in compliance with the provisions of this chapter, or ~~wilfully~~wilfully omits ~~to state~~a material fact in any such application, notice, statement or report ~~any material fact which is required to be stated therein~~, or omits ~~to state~~ a material fact necessary to make the fact stated in view of the circumstances under which they were stated, not misleading;

**F. 6.** Who has any financial interest in, or connection with any business which is illegal where such business is located;

**G. 7.** Whose license location under the provisions of this chapter would be contrary to the health, safety, morals or welfare of the county or its residents;

**H. Who is under the age of twenty one (21) years;**

**I. 8.** Who has been certified mentally incompetent by a court of competent jurisdiction;

**I. 9.** Who has been convicted of a crime involving ~~moral turpitude~~a heinous crime or sexual crimes, unless the board finds, upon examination of the circumstances of the crime and the applicant's criminal history, that the applicant does not present, and is not likely to present in the future, a threat to the health, safety, morals or welfare of the residents of the county, and will likely operate a lawful establishment in full compliance with the letter and intent of all county ordinances, regulations, and the laws of the state;

**J. Whose license issued under this chapter has been revoked for cause;**

~~K. Who, at the time of application for renewal of any license issued under this chapter, would not be eligible for such license upon first application;~~

~~L. 10. Who is a corporation, unless it is incorporated in Nevada, or unless it is a foreign corporation which is qualified under Nevada law to transact business in the state;~~

~~M. A person whose place of 11. Whose business is conducted by a manager or, agent, or key employee, unless the manager or, agent, or key employee possesses the same qualifications required of an individual licensee;~~

~~N. 12. Whose premises are deemed by the board to be unsuitable for the conducting operation of a house of prostitution brothel by reason of ownership of any interest whatsoever in such premises by a person who is unqualified or disqualified to hold a license, regardless of the qualifications of the person who seeks or holds a license to operate a house of prostitution brothel in or upon such premises. (Ord. 434, 2012)~~

D. The board may deny any application if the board finds that the place or location for which the license is sought is unsuitable for the conduct of a brothel. The following places or locations may be deemed unsuitable:

1. Premises difficult to police or difficult to access by the Nye County Sheriff's Office and emergency services;

2. Premises located at or near sites of historical or public interest, as may be designated by the board; or

3. Properties requiring primary ingress or egress across BLM controlled property.

E. No licenses shall be issued without the prospective licensee first obtaining proper Special Use Permit for the proposed brothel.

#### **9.20.125: RESTRICTION ON NUMBER OF ~~LICENSED OPERATIONS~~BROTHELS LOCATED IN AMARGOSA VALLEY:**

The board shall limit the number of ~~licensed operations~~brothels located within the legally designated boundary of the unincorporated town of Amargosa Valley to one (1) or less. (Ord. 434, 2012)

#### **9.20.130: LICENSE RESTRICTIONS:**

Every license issued under the provisions of this chapter shall have the following restrictions:

A. Except as otherwise provided in this chapter no ~~operation~~brothel may be:

1. Located ~~within~~in the ~~city limits of an incorporated city, except as provided by ordinance of such incorporated city;~~

~~2. Located outside an incorporated city~~County, except as provided by this chapter;

~~3. 2.~~ Located within three hundred (300) yards of any public street, road or highway, except for operations existing at the time of adoption of this chapter;

~~4. 3.~~ Located within three hundred (300) yards of any private residence (other than the residence of persons associated with the ~~licensed operation~~brothel) without written consent of the owner of such residence;

~~5. 4.~~ Located within three hundred (300) yards of any other business establishment (other than another ~~house of prostitution~~brothel), without written consent of the owner of such other business establishment;

~~6. 5.~~ Conducted in violation of any ~~city~~town, county, state or federal ordinance, statute, or regulation;

~~7. 6.~~ Located within five hundred (500) yards of any schoolhouse or schoolroom used by any public or common school in the state;

~~8. 7.~~ Located within five hundred (500) yards of any church, edifice, building or structure erected for and used for devotional service or religious worship in the state.

~~8. Will not be located within established unincorporated or incorporated town boundaries unless a town or county ordinance allows it.~~

B. Operations existing at the time of the adoption of this chapter may continue to exist and operate under the same terms and conditions as were in effect during the previous licensing period until the license renewal is issued granted or denied pursuant to the provisions of this chapter; provided:

1. Application for a license is filed as required in this chapter;
2. The license fee is filed as required in this chapter;
3. The application/investigative fee is filed as required in this chapter.

C. Sign Restrictions and other forms of advertising:

1. All houses of prostitution brothels shall be designated by: one (1, One) sign no larger than twenty four (24) square feet, to be located on within 100 feet of the main public entrance of the house to the brothel building on the same parcel of prostitution and to land on which the Brothel is authorized to conduct business. The sign must contain the following words and no others other words:

*BROTHEL*

or

*HOUSE OF PROSTITUTION*

*(and in either case, the name of the establishment) must be used.*

2. The Example: "Brothel – Mables' Parlor" or "Fran's Ladies House of Prostitution".

2. The sign may not have slang, or alternative names used to identify Brothels, illicit or immoral, pictures, photographs, drawings or logos affixed to the sign. The brothel's logo, if it is not illicit or immoral in nature, may be affixed to the sign.

3. The Brothel owner may petition and board may allow such other sign(s) as in the board's determination is found to be necessary to the safety and welfare of the inhabitants of a particular area outside an incorporated city within the county; or appropriate for public identification

3. 4. Signs shall not be placed in locations prohibited by Nevada Revised Statutes 201.430.~~D.~~ NRS 201.440 and other applicable state and local laws. No ~~license to conduct a house of prostitution~~ signs displaying the Brothel's name or logo shall be physically placed anywhere in the county, unless first authorized by the Board.

D. Advertising Restrictions:

1. Licensees are prohibited from advertising the brothel pursuant to NRS 201.430, and any other applicable state and local laws.

2. Advertisements placed outside of the premises, advertising other businesses on the brothel premises, such as a bar, saloon, gaming, or museum, shall not use the name of the brothel, slang or use other verbiage identifying a brothel or advertise a telephone number which is answered by the a brothel or house of prostitution, management, staff or employees.

3. No licensee, managers/key employees or employees, either directly or indirectly, shall place, publish, distribute or cause to be placed, published or distributed any advertisement, picture or statement which is known, or through the exercise of reasonable care should be known, to be false, deceptive, or misleading in order to induce any person to purchase or utilize the brothel services.

4. Red exterior lighting on the premises shall be limited to three (3) lights, each with a total wattage not greater than two hundred (200) watts; additional lighting will be conventional white lights with a total wattage great enough to light the walkways and parking lot ensuring the safety of employees, visitors and clients which will only be in use during the hours of darkness when the brothel is open for business

E. No license to operate a brothel shall be issued until an inspection by the appropriate state and/or county health officer and the county sheriff ~~reveal~~has been conducted and it has been determined that the establishment complies with each of the following minimum requirements:

1. A source of water must be available to facilitate cleaning. All sources of water, including, but not limited to, wells, must be approved by the appropriate state and county agencies;

2. A sewage disposal system approved by the state board of health;
3. Lavatories or washbasins provided with running water shall be installed in either the toilet room or the vestibule. Lavatories or washbasins shall be provided with soap in a dispenser and with sanitary towels;
4. ~~Red exterior lighting on the premises shall be limited to three (3) lights, each with a total wattage no greater than two hundred (200) watts;~~
5. Every portion of a ~~house of prostitution~~brothel, including appliances, apparatus and personnel, shall be kept clean and operated in a sanitary condition;
6. ~~5.~~ All ~~houses of prostitution~~brothels shall provide clean, sanitized, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in an approved, sanitary manner. Approved receptacles shall be provided for storage of soiled linen and paper towels; a hazardous materials biohazard container will be available for the disposal of sharps;
7. ~~6.~~ Rooms, shower compartments and toilet rooms shall be thoroughly cleaned and sanitized each day the ~~house of prostitution~~brothel is in operation. Bathtubs shall be thoroughly cleaned and sanitized after each use;
8. ~~7.~~ The use of condoms for both males and females is mandatory in ~~houses of prostitution~~brothels and a sign that states "CONDOMS ARE MANDATORY" must be displayed in a conspicuous place so that the same may be readily seen by persons entering all rooms, compartments, or areas wherein acts of prostitution are performed;
9. ~~No licensee, their agents or employees, either directly or indirectly, shall place, publish, distribute or cause to be placed, published or distributed any advertisement, picture or statement which is known, or through the exercise of reasonable care should be known, to be false, deceptive, or misleading in order to induce any person to purchase or utilize the house of prostitution services.~~
- E. ~~F.~~ No person issued a brothel license, their ~~agents~~managers/key employees or employees, shall arrange, conduct or perform any escort, outcall, outdate or similar service. (Ord. 434, 2012)

G. No prostitution-related activities may be conducted within the plain view of the public.

H. A license may not be issued or renewed when, at the time of application or renewal, the applicant or the licensee is indebted to the county for any unpaid obligation, including real property taxes, personal property taxes, room taxes or business licenses, including those not used in conjunction with brothel operations, including, but not limited to child support and Court fees and/or fines.

**9.20.140: REGISTRATION OF LICENSEES AND EMPLOYEES APPLICATION FOR WORK CARDS:**

A. Every licensee All, managers/key employees and employee employees shall be registered with the sheriff on the forms provided by the sheriff, which and is required to have a work card. The application form for a work card shall include the following as a minimum information, plus such other information as the sheriff may, from time to time, deem necessary. A referral slip or request for registration from a house of prostitution shall accompany the registration form for a prospective employee:

1. The name, age, address, sex, physical description, social security number, and date of birth ~~of the licensee or employee~~;
2. Full disclosure of all assumed or fictitious names used;
3. ~~A photograph and full set of fingerprints taken by the sheriff;~~
4. Complete employment record ~~of employees~~ for the preceding five (5) years;
5. ~~4.~~ All addresses ~~of employees~~ for the preceding five (5) years;
6. ~~5.~~ A list of all prior arrests, prior convictions ~~of the employee~~, which list shall include a statement of each offense, the place and date of its occurrence, and/or date and place of convictions;
7. ~~Each prostitute~~ B. All application forms shall have a ~~be~~ accompany ~~ed~~ by the following:

1. A referral slip or request for registration from a brothel for a prospective manager/key employee and/or employee.

2. A copy of the person's current and valid health certificate provided by a physician duly licensed by the state;

~~8. The form shall include~~ 3. A photograph and full set of fingerprints taken by the sheriff;

4. A waiver to be signed by the licensee, manager/key employee and/or employee, allowing the past employment and criminal records of the licensee, manager/key employee and/or employee to be open for examination by the properly designated authorities of the county. A waiver, by licensee, manager/key employee and/or employees, shall include any physician-patient privilege with respect to medical records as may exist.

~~B.~~ C. All, managers/key employees and employees or perspective employee will submit to a preregistration drug test.

D. The sheriff shall investigate, through all available means, the accuracy of all information supplied by the prospective employee on the registration form and shall require that each employee furnish him or her with sufficient means of identification.

~~C.~~ E. No person shall be employed by the licensee in connection with the licensed operation issued a work card who:

1. Has ever been convicted of a felony involving moral turpitude a crime of a sexual nature, a sexual crime involving children or a heinous crime;

2. Has made any intentional false statement or omission in the registration form;

3. Is under twenty one (21) years of age.

~~D.~~ F. If upon examining the registration application form and conducting his or her investigation, the sheriff finds the registrant to be suitable for license or employment in a house

~~of prostitution, a house of prostitution registration~~brothel, a brothel work card shall be issued to the registrant, and shall contain:

1. Names, age, and physical description;
2. Photograph and signature of the cardholder;
3. Name of the ~~house of prostitution~~brothel where the person is employed.

**E.** 4. Designates the job position.

**G.** No employee, manager/key employee, shall work in a ~~licensed house of prostitution~~brothel until first having received a ~~registration~~work card and having such card in ~~the employee's~~his/her personal possession or immediate access during hours when the employee is in the ~~house of prostitution~~brothel.

The licensee shall maintain a current, accurate list of employees.

**F.** **H.** A ~~registration~~work card shall be valid for only the employee's current place of employment and must be renewed quarterly, on or before the first day of the quarter (January 1, April 1, July 1 and October 1), semiannually, on or before July 1, or annually, on or before January 1 of the following year. Upon a change of employment from one ~~house of prostitution~~brothel to another, even when the brothels are owned by the same employer, an employee must ~~reregister~~reapply for a work card, pay the ~~registration~~application fee as required in this chapter, and be issued a new ~~registration~~work card for the new place of employment.

**G.** **I.** The ~~registration for~~Brothel License Annual Fee will be paid by the licensee(s) and shall be renewed quarterly, on or before the first day of the quarter (January 1, April 1, July 1 and October 1) ~~) and will be calculated on the actual number of Work Cards issued to the Brothel in the preceding quarter.~~

**H.** **J.** A fee as required in this chapter shall accompany the registration for each registration period, or any portion thereof, and for each ~~reregistration~~re-registration. (Ord. 434, 2012)

## **9.20.145: DISPLAY OF ~~REGISTRATION~~WORK CARD:**

~~Registration~~Work cards issued under section 9.20.140 of this chapter shall remain the property of ~~the licensing authority~~Nye County. Upon commencement of employment, all ~~licensed~~ personnel shall ~~provide~~have their ~~registration~~work card ~~to the brothel owner or manager in their possession at all times~~. The brothel owner or manager shall ~~not~~ maintain possession of the ~~registration~~work card ~~at the brothel at all times except as stated below.~~ The ~~brothel owner~~Registrant (employee) shall ensure the return of all ~~registration~~work cards to the ~~Nye County~~ sheriff's office within five (5) working days of the expiration of the card or separation of employment, whichever shall first occur. (Ord. 434, 2012)

## **9.20.150: HEALTH EXAMINATIONS OF PROSTITUTES AND TESTS:**

A. Medical examinations for all prostitutes working in a ~~house of prostitution~~brothel, must, at no cost to the county:

1. Be performed at least every seven (7) calendar days;
2. Be performed by a physician licensed to practice medicine in the state, or by a physician's assistant or registered nurse under the authority of a physician licensed to practice medicine in the state;
3. Include tests specified by the ~~division~~State Board of Health ~~of the Nevada department of human resources~~(NAC 441A) for the detection and diagnosis of venereal diseases, including, but not limited to, weekly tests for lymphogranuloma venereum and/or the presence of the microorganism chlamydia, trachomatis, and weekly tests for gonorrhea using an endocervical culture technique, urethra swabs, or rectal swabs. All cultures made in the completion of such tests shall be processed at licensed and approved clinical laboratories;
4. Include such other medically approved tests for determining whether the prostitute is afflicted with any infectious or contagious disease, as required by chapter 441A of the Nevada Administrative Code, as amended, and other medically approved tests deemed advisable by the examiner, and must include initial/preemployment examination

and testing, and retesting monthly thereafter, to determine the presence or absence of the human immunodeficiency virus, as required by said chapter 441A;

5. Be performed at the location of the ~~licensed operation~~brothel, at the examiner's office, or at a hospital or clinic, as determined by the examiner;

6. Prostitutes must furnish their ~~house of prostitution registration~~brothel Work Card to the medical examiner, as defined in subsection A2 of this section, before being examined for the detection of gonorrhea, human immunodeficiency virus, or other infectious or contagious disease.

B. After the examination, the examiner must:

1. Issue to a prostitute examined and found not to be afflicted with venereal disease or other contagious or infectious disease, a certificate so stating. The certificate must bear the name and ~~house of prostitution registration~~brothel work card number of the prostitute to whom such certificate is issued;

2. Refuse to issue such certificate if the prostitute is found to be, or suspected of being afflicted with venereal disease or other contagious or infectious disease, and immediately advise the licensee who shall remove the prostitute from service;

3. Report to the ~~board and the~~ sheriff by telephone, email, or cell phone immediately and provide a written report within twenty-four (24) hours of the existence of any condition on the premises of the ~~house of prostitution~~brothel, which, in the professional opinion of the examiner constitutes a health or safety hazard to the patrons, employees or public, together with his or her recommendations for correcting the condition.

C. Licensees of ~~houses of prostitution~~brothels must:

1. Sign the medical certificates of all prostitutes working in the respective ~~licensed operations~~brothel. Such signature shall be considered by the board as verification by the licensee that the holder of that medical certificate is the same prostitute

to whom the corresponding ~~house of prostitution registration~~brothel work card was issued.

2. Report to the sheriff by telephone, email or cell phone immediately and provide a written report within twenty-four (24) hours of the existence of any condition on the premises of the brothel which constitutes a health or safety hazard to the patrons, employees or public, together with his or her plan for correcting the condition.

D. Weekly/monthly medical examination results for all prostitutes working at a ~~house of prostitution~~brothel must be furnished to the sheriff by the licensee verbally immediately upon receipt from the examiner and a written notification must be provided within twenty-four (24) hours of the medical determination.

E. The medical examination records of each prostitute shall be open for examination at any time by the properly designated authorities of the county, and each prostitute, by accepting employment in any ~~licensed house of prostitution~~brothel, shall be deemed to have waived any physician-patient privilege with respect to such records as may otherwise exist.

F. Any prostitute who will work in any ~~house of prostitution~~brothel licensed hereunder without being in possession of such required medical certificate for the then current seven (7) day period shall, in addition to any other penalty, be subject to "sanctions" as defined in this chapter, except that a prostitute may be on or in the premises during the time that prostitute is waiting for health test results and issuance of proof of registration by the sheriff; provided, that the prostitute ~~be is~~ able to demonstrate the test results are pending upon which the issuance of proof of registration by the sheriff depends, and further provided that the prostitute performs no acts described in the definition of "prostitution" in section 9.20.020 of this chapter whether or not such acts may be performed for a fee or other consideration.

Every prostitute who ~~is off~~leaves the brothel premises ~~in excess of twenty four (24) hours~~ shall be subject to all the medical testing requirements set forth in this chapter and any other applicable state laws and regulations prior to engaging in any act of prostitution. Any prostitute who violates this provision will be subject to revocation of his/her work card.

G. Any licensee, manager or key employee who knowingly permits any prostitute to work in their ~~house of prostitution~~brothel in violation of this section shall, in addition to any other penalty, will be subject to ~~"sanctions"~~ as defined in this chapter.

H. The health certificate of each prostitute shall be available for inspection at the licensed location. (Ord. 434, 2012)

I. It is unlawful for a licensee, manager or key employee, or anyone acting on behalf of any such person to allow anyone who has tested positive to the human immunodeficiency virus, or any venereal diseases, including, but not limited to, lymphogranuloma venereum, chlamydia trachomatis, herpes, hepatitis B, human papillomavirus, trichomoniasis, cancroids, syphilis, gonorrhea in a test approved by the state board of health and who has received written notice of that fact, to work as a prostitute in any brothel. (Ord. 434. 2012)

J. Employees are subject to random drug testing by the Sheriff's office.

#### **9.20.160: GENERAL PROHIBITIONSBROTHEL OPERATIONS REQUIREMENTS:**

It is unlawful:

A. For any person under the age of twenty one (21) years to enter or be a patron of any ~~house of prostitution~~brothel;

B. For a licensee of any ~~licensed house of prostitution~~brothel, or for any employee of such licensee, to compel, entice, encourage, permit or suffer any person under the age of twenty one (21) years to enter or be a patron of any ~~licensed house of prostitution~~brothel;

C. For any ~~licensed operation~~brothel, licensee, or for an employee of any licensee, to sell, dispense, or give away any alcoholic beverages to anyone under the age of twenty one (21) years upon the premises of a ~~licensed house of prostitution~~brothel;

~~D. For any person to engage in prostitution or solicitation therefor, except in a house of prostitution licensed under this chapter;~~

~~E. For a licensee, agent or employee of a licensee, or anyone acting on behalf of any such person to allow anyone who has tested positive to the human immunodeficiency~~

~~virus, in a test approved by the state board of health and who has received written notice of that fact, to work as a prostitute in any licensed operation. (Ord. 434, 2012)~~

#### **9.20.165: EMERGENCY SUSPENSION BY SHERIFF:**

A. The sheriff, with the concurrence of the chairman of the licensing board, or if the chairman is unavailable, the vice chairman, may, for cause and without prior notice, suspend any license issued under this chapter until the next meeting of the licensing board for which the matter may be ~~agendized~~placed on the agenda in compliance with the Nevada open ~~meetings~~meeting law. The sheriff shall, within forty eight (48) hours of the suspension, give written notice of the suspension to the licensee and the board, and notice shall be personally given to the person in charge at the location. For the purpose of this section, "cause" shall be defined in section 9.20.170 ~~9.20.170~~ of this chapter.

B. At the next meeting of the licensing board for which the matter may be ~~agendized~~placed on the agenda in compliance with the Nevada open ~~meetings~~meeting law, the board shall determine whether such suspension shall be upheld or rescinded, ~~but~~ if the board decides that the suspension shall continue and remain in effect, then, ~~and in such event~~, the proceedings prescribed in this chapter relative to the ~~maintenance of such license~~ suspension ~~and/or revocation of such license~~ with required notice and hearing shall be ~~initiated as soon as possible and~~ complied with. (Ord. 434, 2012)

#### **9.20.170: SUSPENSION OR REVOCATION OF LICENSE; SUSPENSION OR REVOCATION OF ~~REGISTRATION~~WORK CARD; DISCIPLINARY PROCEEDINGS:**

A. The board may impose "sanctions", as defined in this chapter, for any of the following causes:

1. Any cause that would constitute grounds for denial of a license or ~~registration~~work card;
2. ~~Violation of this chapter or conviction of any other county ordinance, state or federal law or regulation involving moral turpitude by a licensee or employee;~~

~~3. The licensee knowingly permitting the existence of any health or safety hazard upon the premises occupied by the licensed operation or employing any person as a prostitute when such person does not have a current and valid health certificate;~~

~~4. Refusal of the licensee or employee to comply with any lawful order issued by the board;~~

~~5. 2. Any cause which the board may determine, after hearing, as provided in this chapter, to be deleterious to the health, safety, morals and general welfare of the general public;~~

~~6. If a licensee, agent or employee, or anyone acting on behalf of such person suffers a criminal conviction for a violation of Nevada Revised Statutes 201.430 or 201.440.~~

B. Except as otherwise provided in this chapter, before ~~taking~~imposing any ~~disciplinary action~~sanctions against the licensee or employee the board shall:

1. Provide the licensee or employee against whom the proceedings are brought, written specifications charging the licensee or employee with the acts or failures upon which the ~~disciplinary~~ proceedings are brought. The ~~charging instrument~~licensee or employee shall ~~be subscribed to and verified. The respondent must answer~~file a written answer with the County Clerk within ten (10) days after service of the charging instrument. Service shall be ~~effected~~affected in the same manner as provided in this chapter for service of the notice of hearing;

2. The ~~respondent's~~licensee or employee's answer must:

- a. State in short and plain terms the defenses to each claim asserted;
- b. Admit or deny the facts alleged in the charging instrument;
- c. State which allegations he/she is without knowledge or information to form a belief as to their truth. Such allegations shall be deemed denied;

d. Affirmatively set forth any matter which constitutes an avoidance or affirmative defense;

e. May demand a hearing before the board within thirty (30) days of the suspension. Failure to demand a hearing constitutes a waiver of the right to a hearing, ~~and to judicial review of any decision or order of the board~~, but the board may order a hearing even if ~~respondent~~licensee or employee so waives his/her ~~right~~rights;

3. Failure to answer or to appear at the hearing constitutes an admission by the ~~respondent~~licensee or employee of all facts alleged in the charging instrument. The board may take action based on such an admission and on other evidence without further notice to the ~~respondent~~licensee or employee. If the board takes action based on such an admission, it shall include in the record what evidence such action was based on;

4. Give written notice of hearings, providing the time, date and place;

5. Notice of hearing shall be served upon the licensee or employee or posted upon the premises of the ~~house of prostitution~~brothel;

6. Conduct a hearing upon the charges alleged against the licensee or employee. (Ord. 434, 2012)

#### **9.20.180: HEARINGS:**

A. 7. Any decision or order of the board as a result of a hearing as a result of this chapter is final and not subject to judicial review.

C. At all hearings before the board, the following procedure shall apply:

1. Oral testimony may be taken only upon oath administered by the clerk;

2. The parties to the hearing have the right to:

a. Call and examine witnesses~~s~~t;

b. Introduce exhibits relevant to the issues of the case, including transcripts of testimony at any previous hearing conducted by or on behalf of the board; and

c. Introduce transcripts of hearings conducted in courts of record of the state, any other state, and courts of the United States; and

d. Cross examine opposing witnesses on any matters relevant to the issues of the case, even though the matter was not covered on direct examination; and

e. Impeach any witness regardless of which party first called him to testify; and

f. Offer rebuttal evidence; and

3. If the ~~respondent~~licensee or employee does not testify in his or her own behalf, he/she may be called and examined as if under cross examination; and

4. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action; and

5. The parties or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection; and

6. The board may take official notice of any generally accepted information and of any other fact which may be judicially noticed by the courts of this state. The parties must be informed of any information, matters or facts so noticed, and must be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the board; and

7. The Board may consider all evidence and testimony in support of and in opposition to the charges;.

8. The Board shall enter in the minutes of the ~~board the~~meeting any findings, conclusions, decision and action taken by the board. Any sanctions imposed upon a licensee or employee by the board may include expenses and costs of the proceedings.

~~B-~~ D. Notice of the board's findings, decision and order shall be served upon the licensee or employee, and/or posted upon the premises of the ~~licensed operation~~brothel.

~~C-~~ E. Any suspension, limitation, ~~restriction~~ or revocation of a license or ~~registration~~work card shall be effective upon service or posting notice of the same.

~~D-~~ F. Upon issuance and service of the order, the licensee or employee shall immediately cease the proscribed activity.

~~E-~~ G. A return of service shall be filed with the clerk by the person ~~effecting~~affected such service. (Ord. 434, 2012)

**9.20.190: ABSENTIA OWNERSHIP PROHIBITED:**

~~All licensees and their managers must be available to the board at all times, and cannot operate the premises from addresses located in other states.~~ (Ord. 434, 2012)

H. Any decision or order of the board as a result of this hearing is final and not subject to judicial review.

**9.20.195: ARMED SECURITY OFFICERS:**

A. When security officers are to be employed, they may carry a firearm in accordance with the State of Nevada Private Investigator's Board requirements and must be licensed as a private patrol officer or security guard in accordance with NRS Chapter 648.

B. Security officers must be certified by the State of Nevada.

**9.20.200: LICENSE NOT TRANSFERABLE:**

~~A. No license granted under this chapter may be transferred.~~

~~B. All licenses granted under this chapter shall be for operations conducted on the property described in the application only, and no operation shall be added to or removed without a new license application and approval. (Ord. 434, 2012)~~

**9.20.210: TRANSFER OF OWNERSHIP OR INTEREST:**

**A.** A. Licensee(s) shall not sell, lease, barter, hypothecate or give away any interest in, or create or enter into any trust agreement or any agreement of any sort relative to any operation or premises, or any portion of such operation or premises, without notification to and receiving prior approval from the board.

B. Nothing contained in subsection A of this section shall prevent the licensee(s) from surrendering the license to the board and immediately terminating operations and/or the operation. (Ord. 434, 2012)

C. A license granted under this chapter is for operations conducted on the premises described in the application only, by the licensee or co-licensees only, and no licensee may move premises without submitting a new license application and obtaining board approval.

D. In the event of the death or judicially established disability of a licensee, the spouse, next of kin, personal representative or guardian of the deceased or disabled applicant, or any other co-licensee, must immediately notify the board and the sheriff by phone or text and in writing, of the death or judicially established disability.

E. In the event of death or judicially established disability of a sole licensee who holds the sole interest in a brothel, the license shall be immediately suspended and will be revoked upon confirmation of the death or judicially established disability. The application for a temporary license must be filed within thirty days of the date of death or judicially established disability.

F. In the event of the death of a licensee holding a license under an inter vivos trust, or whose ownership of a brothel passes by way of a trust on the licensee's death, the succeeding trustee or trustees must be licensed. If the succeeding trustee or trustees are not licensed at the time of the licensee's death, the board may not authorize the succeeding trustee or trustees to continue operation of the brothel under a temporary license. The application for a temporary license must be filed within thirty days of the date of death.

G. When the brothel is owned or operated by more than one licensee, the remaining co-licensees may continue to operate the business in the event of the death or disability of a co-licensee. The remaining co-licensees may not permit any spouse, heir, next of kin, personal representative or guardian of the deceased or disabled licensee to take part in operating the brothel unless or until the person is approved for a temporary license or is approved as a co-licensee. If a co-licensee no longer has an interest in the operation of a brothel and is no longer required to be licensed, the remaining licensees must notify the board and sheriff immediately that the co-licensee is no longer a licensee. The change in status of the co-licensee is effective on receipt of the notice by the sheriff or the board.

#### **9.20.205: TEMPORARY LICENSE:**

A. The board may, if satisfied the action is necessary, issue a temporary license to an applicant for a specific period of time. The temporary license entitles the person named in the application to take part in the operation of the brothel and receive profits.

B. A temporary license is not transferable.

C. A temporary license may be summarily withdrawn at any time in the discretion of the Chairman of the board and the Sheriff without the necessity of a hearing or proceedings for revocation or suspension.

D. A brothel may not be operated by a bankruptcy trustee, receiver, or assignee for the benefit of creditors until the board has either licensed or temporarily licensed the trustee, receiver, or assignee.

#### **9.20.220: DISPLAY OF LICENSE:**

Every person to whom or for whom a license shall have been granted pursuant to the provisions of this chapter shall display such license in a conspicuous place within the ~~house of prostitution~~brothel so that the same may be readily seen by persons entering the premises. (Ord. 434, 2012)

#### **9.20.230: FEES:**

The following fees are adopted and required by this chapter:

A. Application ~~Investigative~~ Fee: Each application for a license to operate or conduct a ~~house of prostitution~~ brothel must be accompanied by a check or money order in the amount of ~~five~~seven thousand dollars (\$~~5~~7,000.00) for each ~~"person" as defined in this chapter~~ applicant. Payment of the nonrefundable application ~~Investigation~~ fee is a condition precedent to beginning an investigation.

B. Investigative Fee:

1. Any applicant whose place of business will be conducted by a manager ~~or~~ agent, or key employee and any brothel licensee who, pursuant to subsection 9.20.090~~9.20.090R~~ of this chapter, is required to submit an amended application or is required to report the change of a manager or agent, shall pay an additional nonrefundable investigation fee of ~~one thousand~~Fifteen hundred dollars (\$1,000500.00) for each such designated manager ~~or~~ agent or key employee.

2. The board may require payment of supplementary investigative fees, as necessary, as a condition precedent to continuing an investigation.

~~3. The board will not take final action with respect to any application until all investigative fees have been paid in full.~~

B. C. License Fee: Every ~~licensed operation~~ brothel shall pay a quarterly fee for each calendar quarter, ~~or any portion thereof~~ of \$5,000.00. In addition, as follows:

~~1. For an operation for which part of the licensee declares that during that quarter, or any portion thereof, from one to and including five (5) prostitutes will be working on~~ brothel's license fee, for each work card issued for a Prostitute/Sex Worker the ~~floor~~ brothel shall pay \$200.00. These fees charged to Prostitute/Sex Worker work cards ~~shall be capped~~ at ~~that operation at any one time, one thousand eight hundred seventy five dollars (\$1,875.00);~~ \$10,000 a quarter or 50 cards.

~~2. For an operation for which the licensee declares that during that quarter, or any portion thereof, from six (6) to and including ten (10) prostitutes will be working on the floor at that operation at any one time, three thousand five hundred dollars (\$3,500.00);~~

3. For an operation for which the licensee declares that during that quarter, or any portion thereof, from eleven (11) to and including twenty five (25) prostitutes will be working on the floor at that operation at any one time, seven thousand five hundred dollars (\$7,500.00);

4. For an operation for which the licensee declares that during that quarter, or any portion thereof, twenty six (26) or more prostitutes will be working on the floor at that operation at any one time, thirty seven thousand five hundred dollars (\$37,500.00).

**C. Registration** 1. If this chapter becomes effective during a calendar quarter, licensees may be given credit for fees heretofore paid. (Ord. 434, 2012)

**D. Work Card Fee:**

1. A ~~registration work card~~ fee of one hundred ~~twenty five~~<sup>fifty</sup> dollars (\$125~~150~~00.00) shall be required for each calendar quarter, or any portion thereof, and for each registration or ~~reregistration~~ ~~re-registration~~ required under section 9.20.140 ~~9.20.140~~ of this chapter. ~~All registration fees will be deposited into the general fund~~ ~~Quarterly work cards are required for prostitutes, key employees, managers and distributed to the veterans' service department budget during each budget cycle.~~ licensees.

2. ~~An annual registration card shall be issued to each person registering or reregistering, pursuant to~~ ~~A one hundred fifty (\$150.00) dollar initial fee will be charged annually for all other employees, and thereafter annually on the requirements~~ ~~anniversary of section 9.20.140~~ ~~the date of this chapter.~~ ~~hire.~~

3. All work card fees will be deposited into the general fund.

4. Upon payment of each quarter's ~~registration fee, the annual work card fee, the annual card~~ shall be "~~punched~~" or "~~marked~~" to certify current registration.

**D. E. Fees Nontransferable:** The fee paid by one licensee, ~~manager, key employee, or employee~~ shall not inure to the benefit of another licensee, ~~manager, key employee, or employee~~.

E. F. Proration: No proration of any required fee shall be allowed or granted unless provided in this chapter.

~~F. Registration Cards: The registration fee so paid shall be evidenced by the registration card. Each licensee shall be responsible to ensure that each employee has a current registration card. The licensee shall immediately notify the sheriff of the termination of any employee from the licensed location.~~

G. Collection of Fees: All fees shall be collected and disposed of by the sheriff in the manner provided in chapter 364 of Nevada Revised Statutes.

H. Fees Nonrefundable: Unless otherwise provided in this chapter, no fees collected pursuant to the provisions of this chapter, or portions thereof, are refundable. (Ord. 466, 2014: Ord. 434, 2012)

#### **9.20.240: TIME LIMIT FOR FILING APPLICATION FOR LICENSE:**

A. Any person who currently operates a ~~house of prostitution~~brothel in the county must apply for relicensing or licensing as provided in this chapter, and must conform to the provisions of this chapter from and after the effective date hereof.

B. Any person seeking to operate a ~~house of prostitution~~brothel in the county must apply for licensing as provided in this chapter, and must conform to the provisions of this chapter from and after the effective date hereof.

~~C. Upon filing the application mentioned in subsection A of this section, persons currently operating a house of prostitution may be granted a temporary permit (effective as of the effective date hereof), for a reasonable length of time to allow processing of the application; provided, however, that all fees are paid as required by this chapter.~~

~~D. Permittees~~ C. Licensees and their employees shall be subject to all requirements in this chapter immediately upon the effective date hereof. No vested rights inure to a ~~permittee~~licensee.

~~E. If this chapter becomes effective during a calendar quarter, permittees may be given credit for fees heretofore paid. (Ord. 434, 2012)~~

## **9.20.250: VIOLATION; PENALTY, SANCTIONS:**

A. Criminal: Any person violating any of the provisions of this chapter is guilty of a misdemeanor unless otherwise stated. (Ord. 434, 2012)

B. Civil Penalties and/or Sanctions: in addition to any criminal penalty, may include fines:

1. First Violation: Five hundred dollar (\$500.00) fine;
2. Second Violation: Seven hundred and fifty dollar (\$750.00) fine;
3. Third Violation: a show cause hearing in front of the board.

## **9.20.260: CONSTITUTIONALITY:**

If any section, clause or phrase of this chapter shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this chapter shall continue in full force and effect. (Ord. 434, 2012)

## **9.20.270: REPEAL:**

Any and all ordinances or regulations or parts of ordinances and regulations licensing and regulating prostitution in the county in conflict with this chapter are repealed ~~including, but not limited to, Nye County ordinance 122.~~ (Ord. 434, 2012)

## **9.20.280: SEVERABILITY:**

If any provision or part of this chapter shall be declared by a court of competent jurisdiction to be illegal or unconstitutional, it shall in no way affect the remainder of this chapter or any section thereof, it being intended that the remainder shall remain in full force and effect. (Ord. 434, 2012)

**NRS 237.090 Consideration of business impact statement at regular meeting held before meeting to adopt proposed rule required; inclusion of business impact statement on agenda before statement is available for public inspection prohibited.**

1. A business impact statement prepared pursuant to [NRS 237.080](#) must be considered by the governing body at its regular meeting next preceding any regular meeting held to adopt the proposed rule. The business impact statement must set forth the following information:

(a) A description of the manner in which comment was solicited from affected businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(b) The estimated economic effect of the proposed rule on the businesses which it is to regulate, including, without limitation:

- (1) Both adverse and beneficial effects; and
- (2) Both direct and indirect effects.

(c) A description of the methods that the governing body of the local government or its designee considered to reduce the impact of the proposed rule on businesses and a statement regarding whether the governing body or its designee actually used any of those methods.

(d) The estimated cost to the local government for enforcement of the proposed rule.

(e) If the proposed rule provides a new fee or increases an existing fee, the total annual amount the local government expects to collect and the manner in which the money will be used.

(f) If the proposed rule includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

(g) The reasons for the conclusions regarding the impact of the proposed rule on businesses.

2. The county manager, city manager or other chief executive officer for the governing body of a local government shall sign the business impact statement certifying that, to the best of his or her knowledge or belief, the information contained in the statement was prepared properly and is accurate.

3. The governing body of a local government shall not include the consideration of a business impact statement on the agenda for a meeting unless the statement has been prepared and is available for public inspection at the time the agenda is first posted.

(Added to NRS by [1999, 2073](#); A [2005, 1479](#); [2013, 2309](#))