

BILL NO. 2018-23

NYE COUNTY ORDINANCE NO. 543

**SUMMARY:** An ordinance amending Title 9 of the Nye County Code, Titled public peace, morals and welfare, chapter 9.20, prostitution; providing for the severability, constitutionality and effective date hereof, and other matters properly relating thereto.

**TITLE:** AN ORDINANCE AMENDING TITLE 9 OF THE NYE COUNTY CODE, TITLED PUBLIC PEACE, MORALS AND WELFARE, CHAPTER 9.20, PROSTITUTION, BY AMENDING 9.20.020: DEFINITIONS; BY AMENDING 9.20.080: LICENSE APPLICATION; FILING; BY AMENDING 9.20.090: LICENSE APPLICATION; CONTENTS; BY AMENDING 9.20.110: LICENSE; ISSUED; BY AMENDING 9.20.130: LICENSE RESTRICTIONS; BY AMENDING 9.20.150: HEALTH EXAMINATIONS OF PROSTITUTES AND TESTS; BY AMENDING 9.20.165: EMERGENCY SUSPENSION BY SHERIFF; BY AMENDING 9.20.230: FEES; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE HEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO

**WHEREAS**, pursuant to NRS 244.119, the Nye County Board of County Commissioners (“Board”) is authorized to amend the Nye County Code; and

**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**, pursuant to NRS 244.110, the Board of County Commissioners of the County of Nye, State of Nevada, does ordain:

**9.20 PROSTITUTION**

**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, finding of suitability, approval or consent of the board under the provisions of this chapter.

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

BROTHEL: Any establishment 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 any of the activities as defined in the definition of "house of prostitution" of this section.

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

CLERK OF THE BOARD: The county clerk.

COUNTY: The county of Nye, state of Nevada.

EMERGENCY: A sudden or unexpected 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 for any licensee, whether actually employed as an independent contractor or otherwise by such licensee, or any person engaged in management, sale or in any way represents or is held out as representing the interests of a "house of prostitution" as defined in this section.

FEE: License fee, application/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.

LICENSE: A license issued by the board authorizing a person to operate a house of prostitution.

LICENSE DEPARTMENT: The License Department of Nye County, Nevada.

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 duly licensed and operated in accordance with the provisions of this chapter.

LICENSEE: The person to whom a license has been issued to own or operate a "house of prostitution" as defined in this section.

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 as defined in this section, including the real property and all improvements and structures thereon, where houses of prostitution are 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: A person who, for a fee, engages in any act for the purpose of arousing or gratifying the sexual desire of either person.

REGISTRANT: Those persons and employees required to register with the board and/or sheriff under the provisions of this chapter.

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

SEX WORKER: See Prostitute

SEXUAL CONDUCT: Any of the acts defined in the definition of "prostitution" of this section.

SOLICITATION: Any person who:

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

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

Every person wishing to engage in the business of conducting a house of prostitution outside an incorporated city must:

- A. Make application to the License Department for a license in such form prescribed by the board;
- B. File the application, with the application/investigation fee and the required license fee, with the county license collector, as provided in chapter 364 of Nevada Revised Statutes, who shall present the application to the board at its next regular meeting;
- C. Upon presentation and filing of such license application with the board, the board shall refer such 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:**

The application shall be made upon such forms as the board may prescribe and shall contain at least the following information and minimal requirements for a license:

- A. 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 K of this section;
- B. Names, ages and addresses of persons who are or will be personally responsible for the conduct and management of the operation, in addition to the licensee;
- C. 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;
- 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. 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. If the applicant is a Nevada corporation, 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, 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. 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. 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. 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 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. 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 on its face;

R. Any applicant whose place of business will be conducted by a manager or agent must provide all of the information required in this section for and about the designated manager 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 who is conducting the business of a brothel changes, the holder of the brothel license forthwith must inform the License Department of the change, and must submit to the License Department all of the information required by this section for and about the new manager or agent. (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:

1. The names and addresses of all licensees connected with the operation;
2. The address or location of the operation;
3. Any restrictions or limitations imposed by the board;
4. The date of issuance of the license;
5. The date of expiration of the license;
6. All licenses shall be issued for a quarterly period;
7. Thirty (30) calendar days before the expiration date of any license, licensees shall apply to the License Department on the form as prescribed by the Board for renewal;
8. Failure of any licensee to apply for a renewal, as required in subsection C7 of this section, 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. The issuance and acceptance of a license shall constitute an undertaking and agreement by the licensee and his agents 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, and shall include a consent to, and an acknowledgment 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, suspend, or rescind 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. Any license issued under the provisions of this chapter is for the purpose of maintaining a licensed house of prostitution only, and does not entitle the holder thereof to sell, dispense or give away any alcoholic beverages. (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 may be:
  1. Located within the city limits of an incorporated city, except as provided by ordinance of such incorporated city;
  2. Located outside an incorporated city, except as provided by this chapter;
  3. 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. Located within three hundred (300) yards of any private residence (other than the residence of persons associated with the licensed operation) without written consent of the owner of such residence;
  5. Located within three hundred (300) yards of any other business establishment (other than another house of prostitution), without written consent of the owner of such other business establishment;
  6. Conducted in violation of any city, county, state or federal ordinance, statute, or regulation;

7. Located within five hundred (500) yards of any schoolhouse or schoolroom used by any public or common school in the state;
8. 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.

B. Operations existing at the time of the adoption of this chapter may continue to exist until the license is issued 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. All houses of prostitution shall be designated by:

1. One sign no larger than twenty four (24) square feet, to be located on the entrance of the house of prostitution and to contain the following words and no others:

*BROTHEL*  
or  
*HOUSE OF PROSTITUTION*  
(name of the establishment)
2. The 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 within the county;
3. Signs shall not be placed in locations prohibited by Nevada Revised Statutes 201.430.
4. No signs may be placed anywhere in the county advertising the brothel or associated businesses on the same property. No print advertising is allowed anywhere in the county with the same restrictions of other businesses on the same property. Notwithstanding the above, advertising within the premises on matchbooks or any type of print advertising is allowed. See Section C.2.
5. Any bar or saloon operated on the same premises must have a substantially different name than the brothel.

D. No license to conduct a house of prostitution shall be issued until an inspection by the appropriate state and/or county health officer and the county sheriff reveal 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, including appliances, apparatus and personnel, shall be kept clean and operated in a sanitary condition;
6. All houses of prostitution shall provide clean, 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;
7. Rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the house of prostitution is in operation. Bathtubs shall be thoroughly cleaned after each use;
8. The use of condoms is mandatory in houses of prostitution 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. No person issued a brothel license, their agents or employees, shall arrange, conduct or perform any escort, outcall, outdate or similar service. (Ord. 434, 2012)

F. The Sheriff shall inspect the premises of each brothel at least quarterly for compliance with this chapter. Each brothel may be subject to random inspections.

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

A. Medical examinations for all prostitutes working in a house of prostitution, 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 of Health of the Nevada department of human resources 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. 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, 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 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 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 Chairman of the Licensing Board, Sheriff, County Manager and Licensing Department immediately the existence of any condition on the premises of the house of prostitution, 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 must Sign the medical certificates of all prostitutes working in the respective licensed operations. 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 card was issued.

D. Weekly/monthly medical examination results for all prostitutes working at a house of prostitution must be furnished to the sheriff by the licensee.

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, 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 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 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 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.

G. Any licensee who knowingly permits any prostitute to work in their house of prostitution in violation of this section shall, in addition to any other penalty, 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)

#### **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 in compliance with the Nevada open meetings law. The sheriff shall, within forty eight (48) hours of the suspension, give written notice of the suspension to the licensee, the board, and the Licensing Department, 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 in compliance with the Nevada open meetings law, the board shall determine whether such suspension shall be 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 with required notice and hearing shall be initiated as soon as possible and complied with. (Ord. 434, 2012)

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

The fees are adopted by Resolution and will be periodically reviewed. The Resolution will include but is not limited to:

A. **Application/Investigative Fee:** Each application for a license to operate or conduct a house of prostitution.

1. Any applicant whose place of business will be conducted by a manager or agent, and any brothel licensee who, pursuant to subsection 9.20.0909.20.090R of this chapter, is

required to submit an amended application or is required to report the change of a manager or agent.

2. The board may require payment of extraordinary costs, 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. License Fee: Every licensed operation shall pay an annual fee, or any portion thereof, as established by resolution.

C. Registration Fee:

1. A registration fee shall be required for each calendar quarter, or any portion thereof, and for each registration or reregistration required under section 9.20.140 of this chapter. All registration fees will be deposited into the general fund and a portion may be distributed to the veterans' service fund during each budget cycle.
2. An annual registration card shall be issued to each person registering or reregistering, pursuant to the requirements of section 9.20.140 of this chapter. Upon payment of each quarter's registration fee, the annual card shall be "punched" to certify current registration.

D. Fees Nontransferable: The fee paid by one licensee shall not inure to the benefit of another licensee.

E. 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 License Fees: All license fees shall be collected and disbursed by the License Department 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)

**SEVERABILITY.** If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

**CONSTITUTIONALITY.** If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 12<sup>th</sup> day of December, 2018.

Proposed on the 16<sup>th</sup> day of October, 2018.

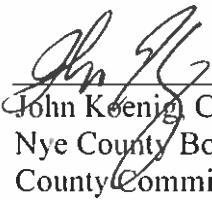
Proposed by: Commissioner Schinhofen.

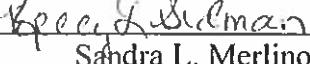
Adopted on the 20<sup>th</sup> day of November, 2018

Vote: Ayes: Commissioners: Koenig, Schinhofen, Wichman, Borasky, Cox

Nays: Commissioners: Ø

Absent: Commissioners:  Schinhofen

BY:   
John Koenig, Chairman  
Nye County Board of  
County Commissioners

ATTEST:   
Sandra L. Merlino  
Clerk and Ex-Officio  
Clerk of the Board