

# Department of Business License

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October 15, 2009

Nightclub Owners, Managers, Key Employees and Security Officers

RE: Compliance with Clark County Code for Protection of Patrons

Dear Licensees, Owners, Managers, Key Employees and Security Personnel:

The Department of Business License is increasingly aware that some nightclubs operating within our jurisdiction have placed the health and safety of patrons at risk due to a lack of vigilant compliance with Clark County Code ("CCC") provisions pertaining to liquor service. We write to advise you that the Department is committed to fostering safe venues for Clark County citizens and tourists; to remind you of the pertinent provisions of CCC under which your privileged license is granted; and to encourage you to communicate directly with Business License staff when you have any questions or concerns related to your nightclub operations.

Pursuant to CCC 8.20.475:

It is the responsibility of the licensee to keep himself informed of the content of all liquor ordinances, and comply therewith, and ignorance thereof will not excuse violations.

Notwithstanding your obligations under CCC 8.20.475, we have attached copies of CCC 8.20.020.237 Nightclub, 8.20.020.240 Nudity, 8.20.055 Alcohol education cards, 8.20.340, Unlawful to serve minors, 8.20.465, Duties of licensee, and 8.20.570 Grounds for disciplinary action to draw your attention to the specific requirements related to nightclub operations and your responsibilities as nightclub owners and operators.

Specifically, we expect that nightclub owners and operators will take every measure available to prevent service of alcohol to minors and over inebriation of all patrons because intoxication places nightclub patrons, casino patrons and the driving public at severe risk for injuries, crimes against persons, and vehicular injury and death. In addition, we believe that the incidents of lewd activity and nudity in nightclubs contributes to crimes of sexual assault and battery against patrons that occurs both within the nightclubs, resort hotel parking areas and restrooms. Therefore, we expect that you will prohibit the use of dance poles, platforms, dance cages and stages by patrons. The professional dancers employed by the nightclub should only access these areas. Further, we expect that patrons will only have access to public spaces and prohibited from entering areas including, but not limited to, kitchens, security areas and offices.

#### BOARD OF COUNTY COMMISSIONERS

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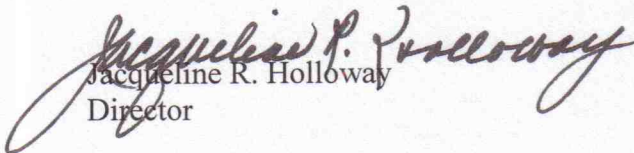
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Finally, but of equal importance is your duty to cooperate with Department agents, State Gaming Control agents and members of the Las Vegas Metropolitan Police Department. Stalling or obstructing access to the nightclub by State Gaming Control and Department agents and Metro officers will not be tolerated and any failure to respond to agents' or Metro officers' inquiries efficiently and expeditiously could result in a civil penalty carrying monetary penalties.

Within the next month, the Department will be scheduling meetings with nightclub management, representatives and security personnel at each of the resort properties to discuss the requirements and responsibilities of the privileged liquor license under which you operate. In the meantime, we encourage you to contact the Department with any questions or concerns that you may have regarding your operations. Supervising Special Agent Gary Torgerson oversees nightclub enforcement and will be able to answer your questions and advise you as necessary. He can be reached at (702) 455-4434.

We believe that the nightclub industry is a vital component of the tourism and entertainment sectors of the Las Vegas business community. We look forward to working with you to ensure that Las Vegas nightclubs deliver world-class entertainment at the highest standards for public safety.

Sincerely,

  
Jacqueline R. Holloway  
Director

cc: Clark County Board of Commissioners  
Virginia Valentine, County Manager  
Phil Rosenquist, Assistant County Manager

Nevada Gaming Control Board

Las Vegas Metropolitan Police Department



**8.20.475 Licensee to conform to law and cooperate.** It is the responsibility of the licensee to keep himself informed of the content of all liquor ordinances, and comply therewith, and ignorance thereof will not excuse violations. Every licensee has a duty to cooperate with county licensing officials and members of the Las Vegas metropolitan police department in their enforcement responsibilities under this title.

**8.20.020.237 Nightclub.** (a) "Nightclub" means a main bar operation in resort hotels as defined in Chapter 8.04 whose primary operations are that of preparing and serving alcoholic beverages for immediate on-premises consumption and a dancehall, which is operated primarily in the late-evening/early morning hours, and whose activities may include the operation of service bars, lounges, admission fees, food operations, and may be licensed for gaming pursuant to Chapter 8.04.

(b) Nightclubs operated in resort hotels or in shopping malls operated in conjunction with resort hotels may be licensed under the ownership of the resort hotel or under ownership separate from the resort hotel.

(c) It is unlawful for a licensee to permit the entry of any minor onto the premises of the nightclub, with the exception that nightclubs which also have a food service operation, whether meeting the restaurant or category 2 restaurant definitions in Chapter 8.20, may permit minors to patronize the restaurant or category 2 restaurant area of their business only, and only between the hours of 6:00 a.m. and 10:00 p.m. and only for the purposes of eating meals. Signs excluding minors from the remaining portions of business must be posted at all entrances to those respective portions of the business. Nothing in this section precludes a licensee from employing a minor eighteen years of age or older (young adult) as an entertainer performing in a lounge show or theater restaurant without violating NRS 202.030 or NRS 202.060, provided that the young adult departs upon the completion of his or her act.

(d) If a restaurant is operated in conjunction with a nightclub and minors are admitted to the restaurant area, alcoholic liquors may be served to all patrons aged twenty-one and older throughout the premises, except that any person twenty-one and older accompanying a minor in the restaurant portion of the business may only be served alcohol in conjunction with meals at dining tables or booths.

(e) It shall be unlawful for a resort hotel licensee to operate a nightclub unless a written request is submitted to the department specifying the name of the nightclub as it is held out/advertised to the public along with the payment of appropriate fees for each main bar/service bar in the nightclub, pursuant to Section 8.20.478 of this code.

(f) It shall be unlawful for a nightclub to provide any live entertainment, as that is defined under Title 30 of this code, without obtaining all required land use approvals and required business licenses for such activities pursuant to Titles 6, 7 and 8 of this code.

(g) It shall be unlawful for a nightclub to operate, as a primary purpose, a separate banquet facility or convention pavilion business on the same licensed premises of a nightclub. However, nothing in this section prohibits a nightclub licensee in a resort hotel from conducting banquet facility or convention pavilion-type operations on their premises, provided that: (1) the nightclub be open to the general public at least fifty-one percent of the time that the premises are in use, regardless of whether alcohol is being served or consumed; (2) the licensee notifies the department of each event at least two working days prior to the event as provided in subsection (h) of this section; and (3) all other provisions of this section are met. For the purposes of this section "in use" means that patrons are utilizing the facility during normal nightclub business operations, during private functions for any purpose not listed herein.

(h) Nightclubs are required to notify the department of the type of event, time and of hours of the event, and the employee supervising the event. A nightclub may notify the department of short-notice banquet-



type events less than the two-working day requirement in the situation where a contract for an event is finalized less than two days prior to the event.

(i) The licensee is required to maintain accurate records and supporting documents consistent with proper accounting procedures. All revenue sources at the point of sale must be clearly identified and segregated, including all revenue from any use of the licensed establishment. The sale of food must be distinguished from the sale of alcoholic liquor, including complimentary alcoholic liquor valued at the retail rate, and any other revenue sources.

(j) The director and any other officer designated by the director shall have the power and authority to enter the business at any time during any private function such as banquet facility or convention pavilion-type events or when the premises are open to the general public and have access to inspect the business for the purpose of ascertaining compliance with the provisions of this code.

**8.20.20.240 Nude/nudity.** "Nude" or "nudity" means the showing of the human male or female genitals, pubic area, or anus with less than a fully opaque covering, or the showing of the male genitals in a discernibly turgid state, whether covered or not. For the purposes of this definition, "fully opaque covering" does not include pasties, latex paint, or hair pieces.

**8.20.55 Alcohol education cards.** It is unlawful for liquor licensees to employ any person to sell or serve alcoholic beverages, participate directly in the control of liquor service or distribution, or perform the duties of a security guard at their business without those persons having in their possession a valid alcohol education card issued by an alcoholic beverage awareness program certified under NRS 369. This provision does not apply to import-wholesaler or club liquor licensees.

**8.20.340 Unlawful to serve minors.** It is unlawful for any licensee or any person employed in a place of business which sells alcoholic liquor to sell, serve, give away or dispense alcoholic liquor to any minor. For the purpose of this section a person shall be deemed to be employed in a place of business which sells alcoholic liquor if he is clothed or vested with ostensible authority to make sales, whether actually receiving a wage or not.

**8.20.465 Duties of licensee.** It is the affirmative duty of each holder of an alcoholic liquor license to strictly enforce all the provisions of this code and state statutes in the licensed establishment, and without limiting the generality of the foregoing, each holder of a liquor license must:

(a) Maintain and conduct all activities upon the premises in a decent, orderly and respectful manner and shall not knowingly permit within or upon the licensed premises any lewd activity, nudity, or topless activity (except in those limited circumstances which are enumerated in Section 8.20.570), disorder, disturbances, or other activities which endanger the health or safety of the patrons or disrupt the peace or order of the neighborhood;

(b) Except for live entertainment venues properly licensed for the sale of alcohol, public facility clubs, and showrooms operated by resort hotel licensees, refuse admittance to all minors to any room of the licensed premises wherein alcoholic liquor is sold for on-premises consumption, unless it is in a restaurant, category 2 restaurant, or supper club that are not operated in conjunction with an adult entertainment cabaret; and

(c) Maintain adequate security to ensure compliance with requirements of subsections (a) and (b) of this section and remain qualified to hold a liquor license as provided in Section 8.20.010.

For the purpose of this section, "premises" means all portions of the building in which the licensee is located and over which it has control and that area of the parking lot over which the licensee has ownership or contractual parking privileges. For the purposes of this section and Section 8.20.570, use of the word



"premises" for liquor licenses that also offer "transient lodging" (as that term is defined in CCC Chapter 4.08) shall not include private rooms designed and used for sleeping purposes.

**8.20.570 Grounds for disciplinary action.** The board may deem that any activity on the part of the licensee, his agents, servants or employees, or a person previously found suitable, which is inimical to the public health, safety, morals, good order, or general welfare of the people of the county or which would reflect or tend to reflect discredit upon the county or the liquor industry or which violates any ordinance or regulation of the board or any other violation of federal law or regulation, state statute or the Clark County Code is grounds for disciplinary action in accordance with Chapter 8.08 of this code. Without limiting the generality of the foregoing, all licensees are declared to be subject to disciplinary action for any of the following violations done either personally or through an agent, servant, or employee:

- (a) Each licensee who violates any provision of Chapter 8.04, 8.20, 8.32, 8.40 or 8.44 of this code.
- (b) Each licensee who sells, purchases or leases a liquor business operation or portion or percentage thereof which is licensed by the board, without first obtaining approval of the board.
- (c) Each licensee who knowingly fails to report or conceals from the board a full disclosure of the names of all persons having an interest in the ownership of or having an equitable or beneficial right to the profits under a license in which he has an interest.
- (d) Each licensee who knowingly fails to report or conceals from proper authorities any information which it is his duty to supply under any statute, ordinance or regulation of the state and the county.
- (e) Each licensee who, for conduct subsequent to the issuance of a license, becomes ineligible to hold a liquor license as set out in the statutes, ordinances and regulations of the state and the county.
- (f) Each licensee who knowingly allows his licensed premises to be frequented by or to become the meeting place, hangout or rendezvous for prostitutes, known hoodlums, persons described as undesirables in liquor operations or those who are known to engage in the use or distribution of illegal narcotics or in any other illegal occupation or business. Any licensee knowingly permitting such conditions on the licensed premises may be subject to all forms of disciplinary action, including but not limited to, provisional suspension of his license, pending elimination of the indicated violation. Disciplinary action for permitting any such violation may be initiated against the licensee for failure to eliminate the same by affirmative corrective action for a period of ten days from the date of written notice of the existence of any such condition or violation.
- (g) Each licensee who knowingly made a misrepresentation of a material fact in his application to obtain a license.
- (h) Each licensee whose liquor license in any place in the state of Nevada has been revoked for cause.
- (i) Each licensee who knowingly allows any male or female person to appear nude or topless in any area on its premises. For the purposes of this section "male or female person" means a licensee, his or her employees, their agents or employees.

Exceptions:

- (1) A resort hotel may provide for its guests a specially designated portion of its swimming pool area where topless sunbathing is permitted. However, such a specially designated area must be separated from all other swimming pool and guest areas; be obstructed from the view of patrons in other swimming pool and common areas; be off-limits to all minors under the age of eighteen; and cannot be used for any special events, contests or parties while any topless sunbathing is taking place;



(2) A liquor licensee that is also properly zoned and licensed as an adult entertainment cabaret may permit topless dancing, performing, or entertaining by a cabaret entertainer in accordance with all applicable Clark County Code regulations; and

(3) A showroom operated at a resort hotel may allow its performers to perform topless in a scheduled show provided that all of the requirements of Section 8.20.020 ("Showroom") are met; that the performers remain on the stage at all times they are topless; that the performers at all times they are topless have no physical contact with patrons; and that the performers at all times they are topless cannot be viewed by patrons located outside of the showroom.

(j) Each licensee who knowingly encourages or condones nudity, lewd activity, or topless activity by patrons (except where otherwise expressly permitted by this section), or who fails to take immediate corrective action against such prohibited patron activity.

(k) Each licensee who knowingly employs, permits or uses any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is topless or nude;

(l) Each licensee that is also properly zoned and licensed as an adult entertainment cabaret who knowingly employs, permits or uses the service of any person, including but not limited to any cabaret entertainer, to mingle with the patrons while such person is topless;

(m) Each licensee that is also properly zoned and licensed as an adult entertainment cabaret who knowingly permits, allows or encourages any employee, including but not limited to any cabaret entertainer, to do any of the following on the licensed premises for the purposes of arousing or gratifying the sexual desire of any person when patrons are present anywhere on the licensed premises:

(1) Use or permit any part of his or her body, to make contact with the anus, pubic region, genitals, or female breasts of any other person;

(2) Use or permit his or her anus, pubic region, genitals or female breast(s) to make contact with any other person except that while dancing a cabaret entertainer may allow their clothed anus, pubic region, and genitals to make contact with a patron's leg(s), excluding the patron's feet, as long as there is no contact that is otherwise prohibited in this subsection (m);

(3) Use or permit his or her buttocks to make contact with the face, hands, anus, pubic region, genitals, or female breasts of any other person; or

(4) Perform any lewd activity or any sexual acts which are prohibited by law.

For the purposes of this section and Section 8.20.570(o), "contact" shall include contact which occurs whether a person is clothed or unclothed or by means of any other object.

(n) Patrons may tip cabaret entertainers provided there is no contact that is otherwise prohibited in this section.

(o) Each licensee properly zoned and licensed as an adult entertainment cabaret who knowingly permits, allows, or encourages any patron to use any part of his or her body, to make contact with the breasts, anus, pubic region, or genitals of any employee, including but not limited to any cabaret entertainer, for the purposes of arousing or gratifying the sexual desire of any person. This does not, however, prohibit the contact that is permitted by subsection (m) of this section.



Patrons are also prohibited from allowing or using their hands, face, pubic region, genitals, or anus from touching the buttocks of any employee, including but not limited to any cabaret entertainer, for the purposes of arousing or gratifying the sexual desire of any person.

Except in cases of medical or emergency purposes, patrons must remain in a vertical position from the waist up at all times he or she is receiving or viewing a dance or performance by any cabaret entertainer.

(p) Each licensee properly zoned and licensed as an adult entertainment cabaret who knowingly permits, allows, or encourages topless dancing, performing or entertaining by any cabaret entertainer, within an area which is not immediately accessible to representatives of the LVMPD and the department without prior approval or restrictions of any type, including but not limited to physical barriers, electronic access, security personnel or any other type of security measure.

(q) Each licensee properly zoned and licensed as an adult entertainment cabaret who knowingly permits, allows, or encourages topless dancing, performing, or entertaining by any cabaret entertainer within an area which is not visible immediately and completely, from one of the following areas, either by direct observation or by means of electronic monitors that must provide instant, real-time visibility: (i) upon entrance to the licensed premises; (ii) from at least one security station that has a fixed location; or (iii) from a service bar area located on the licensed premises. The use of electronic monitors to satisfy the requirements of this subsection must all be located in one central location.

(r) Each license that is also properly zoned and licensed as an adult entertainment cabaret who knowingly permits, allows or encourages any person under the age of twenty-one years to be admitted into the licensed premises. Such prohibited persons include, but are not limited to patrons and employees under the age of twenty-one years.

Disciplinary action taken pursuant to this section is directed only to regulate the sale and distribution of alcoholic liquor and to minimize its deleterious effects on the public's health, safety, morals, good order and general welfare. Sanctions imposed upon a licensee which restrict or prohibit the sale or distribution of alcoholic liquor are within the state's power under the Twenty-First Amendment as delegated to the board by NRS 244.350 and defined in *City of Newport, Ky. v. Iacobucci*, 107 S.Ct. 383. However, any licensee who is subject to disciplinary action pursuant to this section that claims the board unconstitutionally infringed upon some First Amendment right, may, after board action, file or cause to be filed in the district court a petition for writ of certiorari or writ of review pursuant to NRS 34.010 et seq., and EDCR 2.17.