ESCORT AND OUTCALL ORDINANCE
PREPARATION

Many Escort Bureaus and Escort Services, as the Supreme Court of Nevada tells us, are really fronts for Prostitution or, in its language, "Modified Brothels." Clark County, Nevada and Las Vegas have been in the forefront of passing legislation to regulate "escort bureaus" "escorts" and "outcall services."

The Clark County Ordinances [Appendixes II and IV] have been tried by fire and, as amended, have withstood the heat. It is to Clark County that we should look to study their strategy for curbing this brand of prostitution.

However, any city or county seeking to enact a similar ordinance should first determine if state enabling legislation is required or whether such a local law is preempted by some state law provision. It should be noted that Clark County had the benefit of some legislative authority in NRS 244.345 [Appendix I]. Also, included is a discussion of the California case of Cohen v. Board of Supervisors, 707 P.2d 840 (1985) regarding the issue of preemption.

The Clark County Experience

We begin with the fact that the Nevada Legislature in 1979 granted the exclusive power to control, license and regulate escort services in the unincorporated areas of the County to the County License Board, which, in Clark County, was merged into the Liquor Board and was thereafter known as the Clark County Liquor and Gaming License Board. [A copy of the State Legislative Action NRS 244.345 is attached as Appendix I].

In 1981, that Board adopted Regulation G-59-81, which was immediately challenged by ten "escort bureaus." The case was heard in the District Court of the County of Clark and decided on May 3, 1982. (Republic Entertainment Inc. v. Clark County Liquor and Gaming Board (A205260-A210750)

The District Court upheld the regulation, finding:

- Authority Existed
- Duly Enacted
- Basis for "Findings"
- Rational Basis for Regulation
- No Preemption
- No Violation of First Amendment
- No Vagueness
- Within Police Power
- Advertising Not Protected

- Not a Constitutional Right

- No Violation of Due Process
- Escort Business a Privilege Not a Right
- No Overbreadth
- No Denial of Equal Protection

[A copy of Regulation, G.59-81, is attached as Appendix II].

The District Court case was appealed to the Supreme Court of Nevada, after amendment pending appeal to substantially change the provisions relating to advertising and issuance of license. The new Regulation, G.66.83, or Chapter 8.32 [See Appendix III] was tested by the Supreme Court of Nevada in Republic Entertainment Inc. v. Clark County Liquor and Gaming Board, 672 P. 2d 654 (1983).

The Supreme Court of Nevada affirmed the District Court (viz. ruling on the Regulation as amended) and upheld it against renewed attacks based on unlawful delegation, prior advertising restraint, overbreadth and vagueness. It did say that Chapter 8.32 (see Appendix III) is subject to criminal enforcement and must be strictly construed. The escort industry renewed its attack by going to the Federal Courts raising similar grounds, including the argument that First Amendment Association Rights were violated by the terms of the Regulation. That case was tried under the name IDK Inc. v. County of Clark et al, 599 F.Supp.1402 (1984).

The Federal District Court declined to accept that associational rights were violated. It refused to recognize the relationship as traditional dating, which had been held to be protected. The Court indicated that the escorts are parties to a business transaction outside the scope of purely social and personal association, labeling the Escort Services as no more than Modified Brothels. It commented that "Commercial Associational Rights can be restricted" as are other commercial businesses.

The Federal District Court also upheld the Regulation against vagueness, noting the strong governmental interest in controlling prostitution and observed that the Nevada Legislature had designated the operation of an escort service as a "privilege" and, as such, recognized that any license granted was revocable.

That decision and opinion was promptly appealed to the Ninth Circuit Federal Court, which affirmed. (IDK v. County of Clark, 936 F. 2d 1185, (9th Cir. 1988) The Ninth Circuit made the following determinations:

> 1. The county's evidence showed that the escorts were call girls and the escort bureaus were panderers.
>
> 2. Dating and other associations to the extent they are expressive are not excluded from First Amendment protection.

3. The relationship between escort and client possesses few, if any, of the aspects of a protected intimate association.

4. Under any test, it is clear that the escort services are primarily commercial enterprises and their activities are not predominately of the type protected by the First Amendment.

5. The County's regulation does not reach a substantial amount of conduct protected by the freedom of association to permit a facial challenge.

6. As the activities of the escort services and their employees do not implicate substantial First Amendment rights, the county may exercise some discretion in granting licenses.

7. If the county revokes or denies a license for arbitrary or suspect reasons, the aggrieved party may challenge the application of the regulation in that specific context.

8. The overbreadth attack fails because there is no substantial intrusion on non-commercial social associations.

9. The only possible vagueness claims is to the phrase "to excite or arouse the prurient interest." This does not justify facial invalidity. That phrase can be construed so as to pass "constitutional muster."

10. The regulation does not reach a sufficient amount of the activities protected by the constitution to justify facial invalidation.

After 1986, the escort business in Nevada decided to rename their operations as "Outcall Services" to circumvent the Escort Regulation and instead provided "entertainers" who were willing to provide "entertainment" in response to a telephone call. The County of Clark, and its Licensing Board, responded by enacting an "Outcall Promoters and Entertainers" ordinance in 1987, which was amended in 1988, 1991 and 1992 [That ordinance is attached as Appendix IV]. It is interesting to note that the county makes the effort to qualify the ordinance as a time, place and manner content-neutral regulation in the expectation that this will avoid the strict scrutiny level of review to which a content-based ordinance would be subject. Escort services or Outcall Entertainment consist of speech combined with conduct.

The industry immediately challenged the new provisions and by 1990 the case reached the Supreme Court of Nevada. (Starlets International Inc. v. Christensen, 801 P.2d 1343).

The County and the Licensing Board's findings are instructive. They read, in part, as follows:

> "For several years preceding 1986, 'escort' bureaus had been operating as modified brothels in Clark County, engaging in the business of sending 'escorts' to hotel and motel rooms for the purposes of prostitution. Disciplinary action was brought against each of the escort services resulting in a surrender or revocation of their business license. The escort business, then installed a new business method, by obtaining a promoter's license and offering in response to a telephone call what they purported to be 'entertainment.' Police undercover activities have established that these promoters are actually operating as modified brothels, sending individuals to hotel and motel guestroom for the purpose or prostitution under the subterfuge of 'entertainment.' The cover of the First Amendment has materially increased the burden of policing this business to decrease the incidence of prostitution and drug sales."

The industry made a number of challenges to the outcall ordinance, including arguments based on: (1) Failure of Equal Protection in its regulation of "Outcall Promoters" (2) Denial of Rights of Associations and (3) Due Process of Law.

On Equal Protection, the Starlets Court concluded that there was a valid distinction between outcall promoters providing services to hotels and motels and other types of "Outcall Promoters" saying:

> "The ordinance regulates the outcall promotion business in hotels and motels where it is found to function primarily as a pretext for prostitution. Thus the ordinance merely provides Clark County with a weapon against prostitution … The ordinance is reasonably and rationally related to a legitimate government interest."

On the issue of violation of Associational Rights the court held:

> "In Techtow … we invalidated part of an ordinance requiring massage parlors to keep record of the names of patrons … because it violated the patron's right of privacy

> and association … we … concluded that the requirement would deter law abiding people from seeking a legitimate massage… The same concerns are not present in this case. Unlike massage parlors, the problem of controlling prostitution does not occur on business premises. Rather prostitution occurs within the privacy of hotel or motel rooms. Problems of surveillance and detection are costly and difficult … in such locations… The information required by the ordinance such as the name of entertainer and name and location of patrons is designed to aid law enforcement … furthermore, the patron relinquishes some of his or her rights of privacy and association by voluntarily signing his or her name at the check-in desk of the hotel or motel … appellants have failed to show that outcall promotion in hotels and motels is anything other than a pretext for prostitution. The right to engage in prostitution or other illegal activity is not encompassed within the right of association."

On due process the Nevada Supreme Court said:

> "There can be no doubt that 6.140 meets these standards."(delineating the conduct and precise standards). "If a person provides outcall services to hotels and motels, that person must satisfy the licensing provisions of 6.140 … The standard is clear and not violative of due process … The ordinance facilitates a legitimate government interest …"

The Supreme Court of Nevada cited 6.140 in footnote 1 including the language referring to a content-neutral time, place and manner regulation and implied in footnote 4 that it did not apply strict scrutiny although holding the result would be the same.

Footnote 5 recognizes that no fundamental right is involved and implies that rational basis was all that was needed.

At this time, we shall consider the remaining Nevada cases. They were decided prior to Republic, IDK and Startlets. They are: Doubles Ltd v. City of Las Vegas 535 P. 2d 677 (Nev. Sup. Ct. 1975) and Eaves v. Board of Clark County Commissioners 620 P. 2d 1248 (Nev. Sup. Ct. 1980).

The Doubles Ltd. case involved an issue of small importance, to wit, whether a 1973 escort-licensing ordinance of the City of Las Vegas could provide that an "escort bureau" license could only be issued to an individual. The Supreme Court of Nevada said:

> "The right to pursue a legitimate occupation is a fundamental right (Corey v. City of Dallas, 352 F.Supp. 977 (N.D. Tex. 1972) rev'd. on other grounds, 492 F.2d 496 (5th Cir. 1974)). And we perceive no reason why corporate ownership of an escort bureau is more likely to lend itself to illegal activity than is individual ownership."

The Eaves case was an outright ban on conducting an escort bureau or business or advertising the same as adopted by Clark County (Ordinance No. 595) under penalty of fine or six months imprisonment. Citing Oueilhe v. Lovell 560 P. 2d 1348 (1977), the Supreme Court of Nevada said:

> "This court has consistently held that ordinances like Ordinance 595, which prescribe serious penalties, must be strictly construed."

The court continues:

> "Subjecting ordinance No. 595 to … strict scrutiny readily discloses its impermissible vagueness … Ordinance No. 595, as written, may permit criminal sanctions to be imposed without adequate prior warning … and is void for vagueness."

It is to be noted that the vague phrases were in the definition of a "social companion or escort" which could include companions to the "aged, lonely or infirm". It should be further noted that the "findings" made by the Clark County Board of Commissioners in enacting ordinance 595 and the record of the hearing on 595 were incorporated by reference into Regulation G-59-81, which was the ordinance at issue in the Nevada Supreme Court Republic case.

Also, G-59-81 was a licensing ordinance that provided for suspension or revocation and did not specifically provide for a fine or imprisonment, although it did provide that it was unlawful to conduct an escort business unless licensed (section 8.32.040). The Outcall Ordinance does not specifically provide for a fine or imprisonment but does provide for suspension or revocation of license. There is a chapter of the Clark County Code, Chapter 12.08 "Prostitution," which does provide for a fine or imprisonment for "violating any provisions of this Chapter" [Appendix V].

A reference to the present Escort and Outcall regulations will show that exemptions are provided for legitimate businesses. Finally, in Nevada, attention is called to 6.34.010 covering Dating Services [Appendix VI].

The North Carolina Experience

The Court of Appeals of North Carolina in Treants Enterprises Inc. v. Onslow County, 350 S.E.2d 365 (1986) reviewed an Onslow County "Male Or Female Companionship" licensing ordinance adopted in 1985 which required that a ledger be kept of patrons' names by those in the business of providing such companions.

The original case was tried in Onslow County Civil Superior Court where a Captain of Police testified that prostitution, sodomy and drugs were involved in such encounters. That trial court held that the ordinance violated both the Federal and State constitutions, holding:

1. The ordinance lacks a rational basis.

2. It affects the fundamental right to engage in a legitimate business.

3. A large number of people would be affected by the ordinance whose companionship services are necessary, desirable and unquestionably moral.

4. The ordinance imposes unreasonable burdens on the foregoing businesses.

In the Appellate Court, Treants contended:

1. That the ordinance infringes upon the fundamental rights of privacy and freedom of association.

2. That the ordinance has no rational basis.

The county contended:

1. That there is no "fundamental" constitutionally guaranteed right to engage in a legitimate business.

2. Neither the fundamental right of privacy nor the First Amendment Right of Association is implicated.

3. The ordinance does not require strict scrutiny.

4. There are rational bases for the ordinance.

The Court of Appeals held:

> "Initially, we summarize and distinguish the frameworks for substantive due process analysis under the federal and state constitutions. Federal Courts … measure … validity of legislative enactments by employing two distinct tests or levels of scrutiny. The United States Supreme Court has repeatedly stated that substantive due process will no longer be used to invalidate economic legislation… Unless legislation involves a suspect classification or impinges upon fundamental personal rights, it is presumed constitutional and need only be rationally related to a legitimate state interest… This minimal rationality standard of review is satisfied if an ordinance or statute has any conceivable rational basis… On the other hand, a law which burdens certain explicit or implied 'fundamental' rights must be strictly construed. It may be justified only by a 'compelling sate interest' and must be narrowly drawn to express only the legitimate interests at stake."

The Court continued:

> "Our state Supreme Court has reserved the right to grant relief against unreasonable, arbitrary, or capricious legislation under our state constitution in circumstances under which no relief might be granted by federal court interpretation of due process… A single standard has traditionally determined whether legislation constitutes an improper exercise of the police power… The law must have a rational, real and substantial relation to a valid governmental objective (i.e. the protection of the public health, morals, order, safety, or general welfare)… The inquiry is thus two fold: (1) Does the regulation have a legitimate objective? And (2) If so, are the means chosen to implement that objective reasonable?"

The Court added:

> "Treants may be correct in its contention that the 'companionship' ordinance burdens fundamental rights of association and privacy protected by the Federal Constitution so as to demand a heightened level of scrutiny. See Wilson v. Taylor, 733 F. 2d 1539 (11th Cir. 1984) (First Amendment freedom of association extends to purely social and personal associations) Whalen v. Roe, 429 U.S. 589 (1977) (extensive records of personal data implicitly threaten privacy) But see IDK, Inc. v. Clark County, 599 F.Supp. 1402 (1984) (right of association does not extend

to purely commercial relationships); People v. Katrinak, 136 Cal. App. 3d 145, 185 Cal. Rptr. 869 (1982) (Same-privacy). On the other hand, the Supreme Court's reluctance to invalidate economic legislation suggests that the right to engage in legitimate business is not fundamental for purposes of federal due process analysis. We need not decide either of these questions… for many of the reasons discussed hereafter, it is our opinion that the challenged ordinance must fail even the minimal rationality test applicable to regulations that involve no fundamental rights. Nevertheless, we base our decision … upon state constitutional grounds." [underlining added]

The Court continued:

"The basic flaw in the ordinance is that, on its face it purports to regulate not merely Movie Mates businesses, but every business that provides 'companionship' … The plain meaning of 'companionship' obviously encompasses any number of lawfully necessary and unquestionably moral activities (including nursing and rest homes, legitimate dating and escort services, companions for the elderly, support groups, etc. and to that extent the ordinance is not related to any legitimate governmental objective, … clearly state or local governments may lawfully regulate commercial enterprises in the public interest. However, this regulation must be based upon some distinguishing feature in the business itself or exist because the probable consequences of the manner in which the business is ordinarily conducted is substantial injury to the public health, safety, morals or welfare.

"Defendants hurt their own cause by contending that the ordinance regulates only businesses 'pure companionship' or companionship for companionship's sake and not businesses which provide services to which companionship is merely incidental.

"Companionship is an inappropriate 'distinguishing feature' upon which to base regulation… Article I Section 1 of our State Constitution declares that among the inalienable rights of the people are life, liberty, the enjoyment of the fruits of their own labor and the pursuit of happiness. This provision created a right to conduct a lawful business or to earn a livelihood that is 'fundamental' for purposes of state constitutional analysis.

"Our courts … have distinguished those occupations which … threaten particular harm from

ordinary harmless occupations for which burdensome regulations are inappropriate…"

"The prevention or hindrance of prostitution in the guise of Movie Mates is a valid objective of local government. In Onslow County, prostitution, which was traditionally associated with massage parlors, has apparently in recent years become associated with Movie Mates due to the strict regulation of massage parlors. Because of this association, it may be that Movie Mates are particularly suited, like massage parlors, to strict regulation under the local police power. See IDK Inc. v. Clark County

"However … the breadth of the 'companionship' ordinance goes too far. Photographing, fingerprinting and detailed record keeping requirements put onerous burdens on legitimate businesses. A person who provides companionship to elderly or sick people must presumably limit their services to licensed premises… The denial or burdening of innocent persons rights to practice a lawful business because some other businesses, which provide companionships are a subterfuge for illegal activity is capricious and unlawful." [underlining added]

Addressing the privacy issue on record keeping, the Court said:

"Defendant's inappropriately cite … Pollard v. Cockrell 578 F.2d 1002 (5th Cir. 1978). Pollard involved an ordinance regulating massage parlors whose record keeping provisions required only that its name, address and age of patrons be recorded and kept for one year… Whalen … involving drugs required that … records … be kept for five years and then destroyed. In contrast the Onslow County Ordinance mandates a permanent record and requires the inclusion of more extensive personal data … based upon the extensiveness of the data to be recorded and be permanent and lack of any protection against unwarranted disclosure or limits upon the record's use, we conclude the provision violates the right to privacy of patrons."

Two Approaches in California

The first of these cases to concern us is that of People v. Katrinak, 185 Cal. Rptr. 869 (Cal. Ct. App. 1982) involving an ordinance of Los Angeles County providing that:

> "Every person conducting, managing or carrying on any escort bureau shall first procure a license."

The ordinance defines an "escort bureau" as meaning:

> "Any business or agency which for a fee, commission, hire; reward profit, furnishes or offers to furnish escorts."

The ordinance defined an "Escort" as:

> (a) "Any person who, for hire or reward accompanies others to or about social affairs;
> (b) Any person who, for hire or reward corsorts with others about any place of public resort or within any private quarters.

The "central issue" presented to the court was the question of whether escort bureaus and escorts were protected by Freedom of Association Rights. The court held that there was no constitutional protection for such activity.

The Plaintiffs, in addition to a claim of associational rights, also posited a violation of due process and unconstitutional vagueness and suggested that strict scrutiny should be applied.

The Katrinak Court of Appeals noted that the California statutes provided that a misdemeanor penalty is assessed against those who are required to have a license who do not procure the same including licenses required by a city or county.

The court said:

> "In the exercise of its police power, the legislative body does not violate due process so long as an enactment is procedurally fair and reasonably related to a proper legislative goal."

The court indicated that strict scrutiny did not apply, saying:

> "The Supreme Court has … recognized freedom of association is necessary to promote the … goal of preserving an uninhibited marketplace of ideas… The activities described in the ordinance at issue are essentially entertainment-oriented commercial relationships. Escort bureaus … do not foster assemblages for the advancement of beliefs and ideas. Rather they provide a commercial service for those who wish to hire a companion… The

> operation of an escort bureau does not involve constitutionally protected activity."
>
> "The ordinance withstands due process scrutiny… The requirement that a license be obtained before conducting a business or activity has long been recognized as a valid exercise of the police power… Licensing of local business promotes the public welfare … by imposing certain requirements of accountability upon those who sell products or services to the public."

The court observed in passing that the license scheme is not a criminal statute subject to preemption by state law under Lancaster.

The court construed the word "consorts" to mean:

> "Any person who keeps company with others for reward or hire, in public or private quarters."

The court also observed that:

> "Constitutional due process also reaches legislative enactments which are so broad that they prohibit constitutionally protected conduct… The ordinance at issue does not appear to affect any conduct other than the operation of an escort bureau, which is not a protected activity… We conclude … that its is not overbroad"

Note

[Neither the court nor the plaintiffs raised the obvious arguments so much at issue in North Carolina, supra, and in the Cohen case, infra, that the definition of "Escort Bureau" was broad enough to apply to legitimate businesses such as companions for the elderly or infirm and therefore suspect. The whole tenor of the Katrinak case indicates that the court was, in its own mind, construing "escort bureau" to mean what it had traditionally meant in practice viz. a front for prostitution and in so doing ignored the potential overbreadth of the language. This can be observed from the fact that the court took umbrage to the statement that: "It would make a mockery of … cherished constitutional principles to suggest that the activities embraced by an escort bureau rise to a similar level." It appears obvious that the court had, in its own mind, determined what those activities were and was not thinking of innocent social "escort activities." Notwithstanding all this, the case stands and has not been overruled.]

We now review the other California matter known as Cohen v. Board of Supervisors beginning with the February 1985 decision of the California Court of Appeals at 210 Cal. Rptr. 867.

The Board of Supervisors for the City and County of San Francisco in 1981 enacted an escort service ordinance. Cohen brought suit asking for declaratory and injunctive relief and petitioned for a preliminary injunction, which was denied in the lower court. The Mayor indicated that the ordinance was designed to:

> "Reduce the manpower needed to monitor and investigate illegal 'escort services'" which "often front for individuals engaged in serious criminal activity."

The Chief of Police informed the Mayor that:

> "Most escort services are fronts for prostitution."

A Captain of the Vice Squad testified:

> "Escort services in San Francisco are frequently fronts for prostitution and provide an opportunity for theft, extortion and bodily harm against customers."

The ordinance required a permit for anyone engaged in or conducting an escort service, which was defined as:

> "Any business, agency or person who for a fee, commission, hire, reward or profit, furnishes or offers to furnish names of persons, or who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters."

The ordinance defined an "escort" in a similar manner.

To obtain a permit, the escort service ordinance required the following:

- Photograph
- Proof of Criminal Convictions, if any.
- Proof of Age
- Address
- Employment Record

And, "such other identification and information necessary to discover the truth of the matters herein before specified."

The escort must also obtain a permit and is forbidden by the ordinance from engaging in, "any type of criminal conduct with a customer." Also, any violation of the ordinance might result in penalties as a misdemeanor requiring jail or fine.

The Plaintiffs appealed from a trial court denial of their request for a preliminary injunction on the basis that the ordinance seeks to regulate "the criminal aspects of sexual conduct" a matter of exclusive state jurisdiction. The California Court of Appeals held:

> "The ordinance in the present case is clearly one that 'was designed and is enforced as a law against prostitution." (quoting In Re Lane.)

The Appellate Court indicated the ordinance was preempted and rejected the reliance by the Respondents on the case of People v. Katrinak, supra, that the imposition of a license requirement does not conflict with the preemption of criminal aspects of sexual conduct and struck down the ordinance. It found it unnecessary to consider Appellants other arguments.

The City and County then appealed this determination to the California Supreme Court, which after review, ruled at 219 Cal. Rptr. 467 (40 Cal. 3d 277) 707 P2d 840 in 1985 that the California Court of Appeals erred in a matter of procedure and suggested that the appellate court should have restricted itself to whether there was an abuse of discretion at the trial court level. Regardless of this disposition, the Supreme Court of California sua sponte, "addressed" the preemption issue. It quickly found the absence of preemption. While it found some regulation of escort services for the elderly in Section 9400 et seq. of state law it noted that that type of "escort services" was specifically excluded by the San Francisco ordinance and said:

> "No other provisions of state law explicitly regulates the licensing of escort services. Therefore, no preemption on this basis can be found.

Nevertheless, the Supreme Court of California found that certain sections of the San Francisco ordinance were preempted including the provisions, "While acting as an escort … from engaging in any type of criminal conduct" and a provision on counseling or assisting others to violate the escort law.

The court, in effect, severed the offending provisions. It then remanded the case back to the appeals court on remaining issue to determine if the trial court abused its discretion.

The court also blessed the ruling in Katrinak as a not preempted case. The court, in passing, also stated that even if escort services were merely a front for prostitution, this would not cause preemption.

On remand, the California Court of Appeals in Cohen v. Board of Supervisors, 225 Cal. Rptr. 114 (178 Cal. App.3d. 447) in 1986 found no abuse of discretion and thus upheld the trial court's original ruling that denied the injunction against the balance of the ordinance's provisions.

The Evanson Case in Arizona

Evanson v. Ortega, 605 F. Supp 1115 (D. Ariz. 1985) did not involve the terms of an escort ordinance, but only the propriety of a newspaper's refusal to allow undercover governmental "sting" ads to advertise "escort services."

The Sheriff of Manicopa County advertised an "escort service' and from responses was able to make numerous arrests and convictions of "patrons." The ads were made without revealing the source. The publisher attempted to enjoin such a practice and was rebuffed over a claim that he has a First Amendment Right to refuse advertisements. While the court agreed with this general statement it indicated that no injunction was warranted.

Levels of Scrutiny

The next consideration should center around the question of what type of judicial scrutiny will ensue from the enactment of the local ordinance. Can strict scrutiny, intermediate scrutiny or rational basis scrutiny be expected? It is not entirely clear from the paucity of decided cases.

When the Eaves case, supra, was decided in 1980 (which was a complete ban on conducing as escort business in Clark County), the Supreme Court of Nevada held that since the ordinance prescribed serious penalties, it must, under their jurisprudence, be strictly construed. In doing so it found it void for vagueness.

When the Republic cases, came along, however, the Clark County District Court, without discussion held the Clark County ordinance as regulatory in nature and subject to a "rational basis" standard. When the Republic case reached the Nevada Supreme Court, it observed that it was the state statute NRS 244.345(7) that made failure to obtain a license a misdemeanor and said:

> "Since there is statutory authority both for the promulgation of the regulations relating to licensing and for their criminal enforcement, we conclude that Chapter 8.32 is a validly enacted regulation."

The Supreme Court of Nevada in Republic again as in Eaves found that Chapter 8.32 was subject to criminal enforcement and therefore required strict scrutiny. Applying such, it found no constitutional flaw. It did not comment on why the Clark County District Court subjected the ordinance only to rational basis scrutiny.

When the Clark County amended escort ordinance reached the Federal District Court (IDK case), while not determining the level of scrutiny, that court said:

> "In this context … due process demands only that the law shall not be unreasonable, arbitrary or capricious."

The IDK case in the Ninth Circuit referred to the Nevada State Statute and said:

> "The regulation's only criminal penalty is for the operation of an escort service without a license. Nev. Rev. Stat. Section 244.345 (7)(1985)."

There was a strong dissent in the Ninth Circuit by Judge Reinhardt. He stated:

> "The licensing scheme is not simply a restriction on the time, place and manner in which the escort services do businesses… The escort services cannot do business at all unless the state in the exercise of its discretion allows them to do so."

It should be noted that Judge Reinhardt made this statement in a frame of reference that included his belief that Associational First Amendment Rights were being violated. A concept that the majority had rejected in the belief that such rights did not exist in a commercial setting or if they did "did not reach a sufficient amount of the activities protected by the constitution" to justify facial invalidation.

You will observe that the Clark County Regulations, as indicated above, only applied to unincorporated areas. The City of Las Vegas had adopted parallel ordinances, but none seemed to have been discussed in any reported cases except the early Eaves case above. The Las Vegas escort ordinance, as amended, may be found in Appendix VII.

Apparently, the Las Vegas ordinance and the Clark County ordinance were so successful that the "escort service" bureaus and "escorts" were out of business and in order to avoid the application of the same, the former promoters designed a new approach using the label "Outcall Entertainment."

The city, with a view to possible future court tests, decided to opt for what it considered to be a content-neutral time, place and manner "Outcall" enactment, which would be subject only to intermediate scrutiny cf. Phillips v. Borough of Keyport, 107 F. 2d 164, 172 (3d Cir. 1997) even if there were an incidental impact on First Amendment activities. Black's Law Dictionary defines "Intermediate Scrutiny" as a standard lying between the extremes of rational basis review and strict scrutiny. The Las Vegas "Outcall" ordinance, Section 6.57.01 [See Appendix VIII], under Statement of Intent says it imposes an incidental, content-neutral time, place and manner regulation on Outcall Entertainment.

Both the Las Vegas Escort and Outcall Ordinances provide that licensees are also required to comply with Chapter 6.06 of the Las Vegas Code. That Chapter is also attached as Appendix IX.

When Las Vegas adopted the Outcall Ordinance (under an umbrella of content-neutrality) it did not hesitate to make violations a misdemeanor (Section 6.57.190) apparently in the belief that the strict scrutiny, first mentioned in Eaves, would no longer be applied even if criminal penalties involved

In Starlets, the Supreme Court of Nevada left us with some murky pronouncements. At one point it said:

> "Because the ordinance does not affect fundamental rights, a deferential standard of review applies… Chapter 6.140 will therefore satisfy equal protection requirements if there is a rational basis for the differing classifications."

This implies that the court is willing to apply the lowest level of scrutiny. Later in the case that court in footnote 6 says:

> "The classification was proper in time, place and manner of restriction. Chapter 6.140 would therefore most probably pass constitutional muster even if we were to apply a strict scrutiny standard."

The confusion arises from the fact that time, place and manner regulations call for intermediate scrutiny, which is a level of scrutiny between rational basis and strict scrutiny.

The court has also sidestepped the issue of whether or not the outcall ordinance provides for criminal penalties. If it does, then it may have overruled the concept evident in Eaves and Republic that an ordinance, which has criminal penalties, should be strictly construed. In Starlets it goes from the highest level of scrutiny manifest in those cases to the lowest level of scrutiny, which does not seem to turn on the distinction between escort services and outcall services. The outcall ordinance provides in 6.57.190 that violators are subject to fines of up to $1,000 or imprisonment for up to six months.

Summary and Conclusion

In challenges to existing and future "escort" and "outcall" ordinances it can be anticipated that the issue of First Amendment Associational Rights will be raised. The simple approach of claiming no such rights exist in the context of these types of ordinances, since it is a regulation of commercial conduct, may not fly. There is at least an argument that dating is an Associational Right. That same allegation could at least be made in relation to Outcall "Entertainment." It perhaps might be wise to approach the

enactment of an "Outcall" ordinance under a content-neutral approach on the theory that perhaps such services provide "entertainment." [Appendix X contains a short discussion on content-neutral ordinances where it is noted that the United States Supreme Court apparently does not believe that escort service ordinances trigger First Amendment Rights.]

The California municipalities might perhaps wish to follow the Cohen type of ordinances or present the issue to the California Legislature and request enabling legislation to give the cities and municipalities more leeway in the terms of such ordinances, just as the legislature did in loosening the reins on regulating massage parlors.

North Carolina remains a problem in the light of the holding in Treants, discussed above. It may be that an ordinance could be crafted that would not offend Onslow. It should be noted that the ordinance in that case had "a critical flaw in that on it face it purports to regulate, not merely Movie Mates, but every business that provides companionship." This perhaps could be corrected by appropriate language (See, for example, the exemption of such other businesses in the Clark County Nevada Ordinance [Appendix IV, Section 8.32.150]). The court also stated that the "Law of the Land" in North Carolina requires that a law or ordinance "must have a rational, real and substantial objective (i.e.: the protection of the public health, morals, order, safety or general welfare)." That court also doubted whether any federal "fundamental" right was involved. That court went on to say:

> "Defendants hurt their own cause by contending that the ordinance regulates only businesses providing 'pure companionship' or 'companionship' 'for companionship's sake' and not businesses which provide services to which companionship is merely incidental" [underlining added].

The court continued:

> "Traditionally, our courts, when assessing the propriety of legislation regulating trades and businesses, have distinguished those occupations … which … threaten particular harm from ordinary, harmless occupations for which burdensome regulations are inappropriate."

It further said:

> "The prevention or hindrance of organized prostitution in the guise of Movie Mates is unquestionably a valid objective of local government. In Onslow County, prostitution, which was traditionally associated with massage parlors, has apparently in recent years become associated with Movie Mates… Because of this association,

> it may be that Movie Mates are particularly suited, like massage parlors, to strict regulation under the local police power. (See IDK, Inc. v. Clark County) However … the breadth of the 'companionship ordinance goes far beyond what is necessary.'"

It seems quite obvious that the North Carolina Supreme Court was setting out a template or blueprint for a proper ordinance for North Carolina municipalities and signaling its willingness to accept a revised ordinance that would not have the defects it found in Treants.

End Notes

See Also "Laws Prohibiting or Regulating 'Escort Services' 'Outcall Entertainment' or Similar Services Used to Carry on Prostitution" in 15 ALR 5th 900.

See Checklist and Appendixes attached.

Appendix I

NEVADA REVISED STATUTUES

NRS 244.345 Dancing halls, escort services, entertainment by referral services and gambling games or devices; limitation on licensing of houses of prostitution.

1. Every natural person wishing to be employed as an entertainer for an entertainment by referral service and every natural person, firm, association of persons or corporation wishing to engage in the business of conducting a dancing hall, escort service, entertainment by referral service or gambling game or device permitted by law, outside of an incorporated city, must:

(a) Make application to the license board of the county in which the employment or business is to be engaged in, for a county license of the kind desired. The application must be in a form prescribed by the regulations of the license board.

(b) File the application with the required license fee with the county license collector, as provided in chapter 364 of NRS, who shall present the application to the license board at its next regular meeting.

The board, in counties whose population is less than 400,000, may refer the petition to the sheriff, who shall report upon it at the following regular meeting of the board. In counties whose population is 400,000 or more, the board shall refer the petition to the metropolitan police department. The department shall conduct an investigation relating to the petition and report its findings to the board at the next regular meeting of the board. The board shall at that meeting grant or refuse the license prayed for or enter any other order consistent with its regulations. Except in the case of an application for a license to conduct a gambling game or device, the county license collector may grant a temporary permit to an applicant, valid only until the next regular meeting of the board. In unincorporated towns and cities governed pursuant to the provisions of chapter 269 of

NRS, the license board has the exclusive power to license and regulate the employment and businesses mentioned in this subsection.

2. The board of county commissioners, and in a county whose population is less than 400,000, the sheriff of that county constitute the license board, and the county clerk or other person designated by the license board is the clerk thereof, in the respective counties of this state.

3. The license board may, without further compensation to the board or its clerk:

(a) Fix, impose and collect license fees upon the employment and businesses mentioned in this section.

(b) Grant or deny applications for licenses and impose conditions, limitations and restrictions upon the licensee.

(c) Adopt, amend and repeal regulations relating to licenses and licensees.

(d) Restrict, revoke or suspend licenses for cause after hearing. 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 limitation and afford the licensee a hearing.

4. The license 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 of the employment or businesses mentioned in this section. Notice of the hearing must be published in a newspaper published and having general circulation in the county at least once a week for 2 weeks before the hearing.

5. Upon adoption of new regulations the board shall designate their effective date, which may not be earlier than 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.

6. Except as otherwise provided in NRS 241.0355, a majority of the members constitutes a quorum for the transaction of business.

7. Any natural person, firm, association of persons or corporation who engages in the employment of any of the businesses mentioned in this section without first having obtained the license and paid the license fee as provided in this section is guilty of a misdemeanor.

8. In a county whose population is 400,000 or more, the license board shall not grant any license to a petitioner for the purpose of operating a house of ill fame or repute or any other business employing any person for the purpose of prostitution.

9. As used in this section:

(a) "Entertainer for an entertainment by referral service" means a natural person who is sent or referred for a fee to a hotel or motel room, home or other accommodation by an entertainment by referral service for the purpose of entertaining the person located in the hotel or motel room, home or other accommodation.

(b) "Entertainment by referral service" means a person or group of persons who send or refer another person to a hotel or motel room, home or other accommodation for a fee in response to a telephone or other request for the purpose of entertaining the person located in the hotel or motel room, home or other accommodation.

[1:50:1923; NCL § 2037] + [2:50:1923; NCL § 2038] + [3:50:1923; NCL § 2039] + [4:50:1923; NCL § 2040]—(NRS A 1959, 838; 1961, 364; 1971, 11; 1973, 923; 1975, 562; 1979, 20, 305, 511, 728, 730, 732, 733; 1989, 1899; 1991, 166; 2001, 1124)

Appendix II

1981 CLARK COUNTY ESCORT REGULATIONS UNINCORPORATED AREAS G-59-81

Chapter 8.32 ESCORT SERVICES

8.32.010 Findings. The Clark County liquor and gaming license board finds:

(A) The 1979 Nevada Legislature (S.B. 396) granted the exclusive power to control and/or license and/or regulate escort services to the county license board (merged with liquor board now known as Clark County liquor and gaming licensing board) which board licenses businesses which tend to be injurious and deleterious.

(B) The Clark County board of commissioners on November 7, 1978, held a public hearing, which board consisted of the present members of the Clark County liquor and gaming licensing board, which board of county commissioners enacted Ordinance 595 which made certain findings which are found by this board to be accurate, and true and in accordance with the conduct of escort services operating in Clark County. This board adopts the record, minutes, and findings of the board of county commissioners of said date as the basis upon which to enact this regulation, in addition to facts of which it takes legislative notice.

(C) Based upon the above, the Clark County liquor and gaming licensing board determines that the operation of a business of providing escorts (as herein defined) is detrimental to the health and safety of the public, community, and tourists, that such a business is offensive to the public morals and decency; that such a business is detrimental to the continued economic development of the county and tends to degrade the county as a provider of good entertainment, and is harmful to the cause of attracting tourists, visitors, and conventions to the county; it having been established that the escorts and escort bureaus have:

(a) Engaged in fraudulent, misleading and deceptive advertising which is designed to make the prospective client believe that acts of prostitution (as defined in Section 12.08.010 of this code) will be provided;

(b) Collected money in advance for the promise of acts of prostitution and refused to provide same unless additional money is paid to the escort as a tip, token or gratuity;

(c) Forced other escort services out of business by threats and by intimidation have taken over other escort bureaus;

(d) Failed, neglected and refused to comply with legitimate ordinances requiring weekly health examinations for infectious disease, resulting in a higher incidence of infectious contagious disease than that of licensed Nevada brothels;

(e) Used as escorts, persons known to have violated the law regarding prostitution, and refuse to cease their use;

(f) Required escorts to pay the escort bureau as much as five hundred fifty dollars per week for introductions to patrons;

(g) Operated primarily as an employment agency without acquiring a state license therefor or complying with state law, as required in NRS Chapter 611;

(h) Employed "escorts" without providing Nevada Industrial Insurance or employment security benefits therefor;

(j) Refused to refund fees paid by patrons upon a patron's complaint of failure to satisfy contractual agreement;

(k) Submitted fraudulent and incomplete financial records for the purpose of computing license tax;

(l) Operated unlicensed escort bureaus and violated valid court orders;

(m) Refused to protect escorts sent out by them resulting in the rape, assault and robbery thereof;

(n) Given Las Vegas and Clark County the reputation of the "Prostitution Capitol of the World";

(o) Operated escort bureaus as a "call girl" prostitution operation;

(p) Operated only on an "out call" basis;

(q) Admitted in judicial proceedings they are unable to control the acts of the escort to prevent acts of prostitution while with a patron;

(r) Admitted in judicial proceedings that the business relationship between an escort and an escort patron was the "private sex life of an individual";

(s) Admitted in judicial proceedings their business is of the nature of a dancehall and within the jurisdiction of the license board rather than the board of county commissioners. Thus, admitting the escort bureaus to be a privileged business;

(t) Defined "escort bureau" in judicial proceedings as "a business which furnished persons who make a business or profession of being a date or companion to another." (Reg. G-50-79 § 17 (part), 1979).

8.32.020 Declaration of policy. It is found and declared that:

(A) The escort business (as herein above the hereinafter defined) is a subterfuge for organized prostitution and sexual pleasure for pay between female and male, and not a useful trade, occupation or business in which the citizenship have an inherent right to engage;

(B) That since 1969 various county ordinances (339, 491, 502, 528, 595) have been enacted to regulate and enforce legitimacy upon the escort business without success;

(C) That as prostitution is inherent in the escort business as conducted in Clark County, it is not a legitimate occupation;

(Reg. G-50-79 § 17 (part), 1979).

8.32.040 Unlawful to conduct an escort bureau business without license. It is unlawful for any person to conduct, manage, operate, or maintain an escort bureau within the county unless licensed pursuant to this chapter. (Reg. G-59-81 § 2, 1981: Reg. G-50-79 § 17 (part), 1979).

8.32.050 Unlawful to work as an escort – Exceptions. It is unlawful for any person to work or perform services as an escort in the county unless employed by a licensed escort bureau or licensed as an escort bureau. (Reg. G-59-81 § 3, 1981: Reg. G-50-79 § 17 (part), 1979).

8.32.060 Definitions. (A) An "escort" is a person who for monetary consideration in the form of a fee, commission, salary, or tip, dates, socializes, visits, consorts with, or accompanies or offers to date, consort, socialize, visit, or accompany, another or others to or about social affairs, entertainments or places of amusement or within any place of public resort or within any private quarters of a place of public resort.

(1) A service oriented escort is an escort which:

(a) Operates from an open office; and

(b) Does not employ or use an escort runner; and

(c) Does not advertise either directly or by implication the availability of sexual stimulation or sexual gratification to the customer or work for an escort bureau which so advertises.

(2) A sexually oriented escort is an escort which:

(a) Employs or uses an escort bureau runner; or

(b) Works for, is associated with, or has contracted with a sexually oriented escort bureau; or

(c) Advertises, either directly or by implication that sexual stimulation or sexual gratification will be provided, or works for, or is associated with, or has contracted with an escort bureau which so advertises; or

(d) Provides sexual stimulation or sexual gratification to an escort patron.

(B) An “escort bureau” is a person, as defined herein, which for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

(1) A service oriented escort bureau is an escort bureau which:

(a) Maintains an open office at an established place of business; and

(b) Employs or provides only escorts which possess work identification cards; and

(c) Does not use an escort bureau runner; and

(d) Does not advertise either directly or by implication the availability of sexual stimulation or sexual gratification to the customer or that escorts will or may provide such services,

(2) A sexually oriented escort bureau is an escort bureau which:

(a) Operates in any of the manners described in Section 8.32.010 (C)(a), (b), (e), (o); or

(b) Does not maintain an open office; or

(c) Uses an escort bureau runner or contracts with third persons for the referral of patrons; or

(d) Advertises, either directly or by implication that sexual stimulation or sexual gratification will be provided, or that escorts which provide such sexual stimulation or sexual gratification will be provided or introduced to a patron; or

(e) Provides sexual stimulation or sexual gratification to an escort patron; or

(f) Employs, contracts with or provides escorts which do not possess work identification cards.

(C) An “escort bureau runner” is any third person, not an escort, who for a salary, fee, hire, reward, or profit, acts in the capacity of an agent for an escort bureau or a patron by contacting or meeting with escort patrons or escort bureaus at any location other than the established open office whether or not said person is employed by such escort bureau or by another business, or is self-employed.

(D) An "escort person" is any person who contracts with or employs an escort bureau or escort.

(E) "Licensing board" is the Clark county liquor and gaming licensing board as defined in Chapter 3.40 of the Clark County Code.

(F) "Person" is any individual, partnership, limited partnership, firm, corporation or association.

(G) An "open office" is an office at the licensed escort bureau address from which escort business is transacted and which is open to patrons or prospective patrons during all hours during which escorts are working, which is managed by an employee, officer, director or owner of the escort bureau having authority to bind the bureau to escort and patron contracts, and adjust patron and consumer complaints.

(H) A "licensee" is a person who is a holder of a valid license under this title. Licensee includes an agent, servant, employee or other person acting on behalf of a licensee whenever such licensee is prohibited from doing a certain act under this title.

(I) "Sexual gratification" means sexual conduct as defined in NRS 201.295

(J) "County" means, unless otherwise indicated, that portion of Clark County outside the incorporated cities and towns, both within and without the unincorporated cities and towns.

(K) "Director" means the director of the department of business license of Clark County. (Reg. G-59-81 § 4, 1981: Reg. G-50-79 § 17 (part), 1979).

8.32.070 Work identification cards required. (A) All escorts, owners, managers, officers, directors and employees of escort bureaus are required to obtain work identification cards pursuant to the regulation codified as Chapter 8.24 of the Clark County Code.

(B) In addition to grounds for denial of work identification cards, set out in Section 8.24.050(B) the Las Vegas metropolitan police department may deny a work card if the applicant has been convicted of prostitution, pandering, soliciting or any crime listed in NRS 201.300 through NRS 201.440, inclusive; or has owned, managed, or operated an illegal or unlicensed brothel or received payment or portion of profits therefrom; or has been convicted of conspiracy, fraud or obtaining money under false pretenses; or has worked as a sexually oriented escort or operated a sexually oriented escort bureau subsequent to sixty days from the date of adoption of these regulations without applying for a work identification card, and a business license if an escort bureau. The commission of any of the above crimes by a holder of a work card may be grounds for a suspension or revocation thereof by the licensing board. The Las Vegas Metropolitan police department shall advise the director of all grounds for suspension or revocation prior to license renewal.

(C) The escort bureau shall keep a current list of all escorts at the licensed business location. Said list shall contain the name and work identification card number of each escort and shall be available during all business hours for inspection by licensing officials, and agents of the Las Vegas Metropolitan police department.

(D) Las Vegas Metropolitan police department may issue a thirty-day temporary work identification card pending complete investigation, if available evidence does not support the immediate granting or denial of a permanent card. No person required to obtain a work identification card pursuant to this chapter shall be licensed or work as an

escort without either a temporary or permanent work card. The temporary work card may be extended only once without the consent of the licensing board. (Reg. G-59-81 § 5, 1981: Reg. G-50-79 § 17(part), 1979).

8.32.080 Applications, investigation and license issuance. An escort bureau license is a privilege. A license shall not be issued for the operation of an escort bureau unless the applicant for such a license successfully carries the burden of establishing suitability to receive said license. One license shall be issued for each escort bureau. The initial license fee shall be determined as provided in Section 6.08.090 of the Clark County Code, based upon the gross receipts rate set forth in Section 6.12.835 therof.

(A) All persons desiring to obtain a business license to engage in an escort bureau business within the county, shall first file an application with the director on a form provided by his office.

(B) All applicants shall provide the following information under oath:

(1) Whether the applicant has even been convicted by any state or federal court within the past ten years of any misdemeanor or felony other than traffic offenses;

(2) A list of convictions for all pandering, prostitution, soliciting, thefts, fraud, obtaining money under false pretenses, embezzlement or any criminal convictions involving the use of force or violence upon the person of another; or adverse civil action judgments involving allegations pertaining to fraudulent advertising, sales or trade practices, and a detailed explanation of the circumstances;

(3) The address of the proposed business location in the county, with a copy of the deed, lease, or other document to which applicant occupies such premises;

(4) The person or persons who will have custody of the business records at the business location;

(5) Agent for service of process;

(6) Applicant's family, residential, education, military, and criminal history background, covering at least a ten-year period immediately preceding the date of filing of the application;

(7) A complete description of the exact nature of the business to be conducted, including office organization, advertising theme and method, employee qualifications and copies of contracts to be used with escorts and patrons;

(8) Applicant's business and employment history starting whether or not the applicant, or applicant's manager, director, officer, partner or stockholder(s) have had any business license revoked or suspended and stating the details thereof including the reasons therefore;

(9) The names, current addresses and written statements of at least five bona fide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of Clark County, then the state of Nevada and lastly from the United States.

(C)(1) If an applicant is a partnership or limited partnership, all application information listed in subsection (B) of this section shall be provided for all the partners, including, if applicable, limited partners, the same as if each were a sole proprietor and applicant.

(2) If an applicant is corporation, all application information listed in subsection (B) of this section shall be provided for each of the directors, officers and shareholders

holding ten percent or more of the stock of the corporation the same as if each were a sole proprietor and applicant.

(3) If applicant is a partnership or limited partnership, it shall provide a certified copy of an agreement or articles of partnership or limited partnership and certificate.

(4) If applicant is a corporation, the application shall be accompanied by:

(a) A certified copy of the articles of incorporation of such corporation and, if incorporated under the laws of another state, a certificate of qualification to do business in the state of Nevada; and

(b) A current annual list of officers, directors, and resident agent of such corporation; and

(c) A list of the stockholders, the last known residence address and telephone number of each, and their respective ownership interests in such corporation certified as being true and correct by the secretary of such corporation; and

(d) A certified copy of all minutes or resolutions by the board of directors of such corporation authorizing such license application and designating the officer to apply on such application and authorizing his verification therof.

(5) If such business is to be conducted under a name other than the legal name of the applicant, the application must be accompanied by a copy of the fictitious name certificate on file with the county clerk of Clark County, Nevada.

(6) All officers, directors, shareholders which own, directly or constructively ten percent or more of the outstanding stock of the corporation, and the managing agent of the corporation must be investigated for determination of suitability as set forth in this chapter.

(D) The applicant shall supplement the application by submitting a written plan setting forth the method of operation of the escort bureau, which shall include, but not be limited to:

(1) The hours that the escort bureau will be open to the public (said hours shall include all hours any escorts are with a patron); and

(2) The methods of promoting the health and safety of escorts and protecting them from assault, battery, rape; and

(3) The methods of supervision of employees to prevent the escort from charging the patron any fee which is in addition to the fee paid to the escort bureau by the patron; and

(4) The methods of supervision which will prevent the escorts from engaging in acts of prositution; and

(5) The Federal Employer's Identification number and Nevada Industrial Commission policy number; and

(6) The name and the address of the certified public accountant who will certify the gross receipts upon application for renewal license; and

(7) The applicant shall submit a statement disclosing the names of all persons who have invested in the proposed escort bureau, and who will share in or receive a percentage of the profit or return from the proposed escort bureau.

(E) The failure to truthfully disclose any of the information required by subsections (B), (C), and (D) of this section or the failure to make a full disclosure of all facts required shall be grounds for denying the license or, if subsequent to issuance of a license it is discovered that any applicant or person required to be investigated has not

been completely truthful or has withheld any facts in answering the above questions, such failure shall be grounds for revoking the license.

(F) After the filing of a completed application and payment of all fees, the applicant shall be referred to the Metropolitan Police Department for fingerprinting, investigation and reporting as required in this chapter.

(G) The result of said investigation shall be given to the director within sixty days or as soon thereafter as possible.

(H) The director shall deny the license if:

(1) The license application is incomplete so as not to contain all information required by this chapter; or

(2) All license and investigation fees are not paid; or

(3) The applicant or any of its principals has been convicted of a crime listed in subsection (B)(2) of this section or has been enjoined in an adjudicated civil action from engaging in fraudulent advertising or sales or trade practices; or

(4) The applicant, based upon the content of his application, and his activities since the enactment of these regulations, intends to operate a sexually oriented escort bureau; or

(5) The applicant or partner, stockholder, officer, or director, has had an escort license previously revoked or denied for any ground set out in Section 8.32.140; or

(6) The applicant, its partners, officers or directors, do not qualify for, or have not obtained work identification cards as required in Section 8.32.070.

(I) An applicant whose license has been denied by the director pursuant to subdivisions 3,4 or 5 of subsection (H) of this section may appeal the director's decision within ten days to the licensing board by written notification to the director. The licensing board shall hear the appeal by examination of:

(1) The circumstances of the crime or civil action, past business experience, and plans for operation of the proposed escort business; and

(2) The applicant's criminal and civil court history, and business or employment history since said adjudications; or sexually oriented escort bureau operations since the enactment of these regulations; and

(3) The written recommendations of five or more residents of Clark County.

The licensing board may sustain the director's denial or grant the license based on the evidence presented that the applicant does not present, and is not likely to present in the future, a threat to county safety, morals and welfare, and will not operate a sexually oriented escort bureau as defined in this chapter. The licensing board may grant restricted or conditional license if in its discretion the facts presented merit such license. (Reg. G-59-81 § 6, 1981: G-50-79 § 17 (part), 1979).

8.32.090 Investigation fees. An investigation fee deposit of on ehundred seventy-five dollars shall accompany every application. In addition, applications with more than one person for which a separate background investigation must be conducted shall pay an investigation fee deposit of one hundred seventy-five dollars per person. The investigation of previously licensed resident escort bureau licenses may be waived by the Licensing Board, however, in any event, said previously licensed escort bureau owners shall not be required to pay in excess of said one hundred seventy-five dollars

investigation fee. The director may require pre-payment of additional investigation fee if he determines that the circumstances so warrant.

Every previously unlicensed applicant shall pay the entire cost incurred by the county to complete the investigations required by this chapter whether the application is approved or denied. Such costs are a collectible debt due to Clark County and must be paid in full prior to final consideration for licensing by the director. The sheriff shall not proceed to investigate once the cost has exceeded five hundred dollars unless further deposit of fees is made by the applicant.

Any investigative fees paid by the applicant in excess of that necessary to cover the full cost to Clark County of such investigation shall be refunded to the applicant.

If the applicant withdraws his application prior to beginning the investigation, investigative fees shall be refunded to the applicant.

The sheriff or other investigative unit performing background investigations shall maintain an accounting of all investigative activity for which the applicant will be billed, including the date, actual hours expended, description of activity, and the name of the investigator(s) performing same. Such investigative billing records shall be compiled as the activities are performed and shall be promptly made available to the applicant, director, or licensing board, upon written request. (Reg. G-59-81 § 7, 1981).

8.32.100 License renewal. The escort bureau license terminates at the end of each semiannual period, and for renewal thereof, the licensee must reapply by filing with the director an update of the original application to reflect any changes therein since the last licensing period. Said application for renewal must be made thirty days prior to the expiration of the semiannual period with all license fees as required in Section 6.12.835 of the Clark County Code. The director shall determine if there has been any material changes in applicant's compliance with the conditions of Section 8.32.080 prior to renewing the license and shall deny such renewal if the licensee is in violation of any of the conditions of this code or would not be suitable for licensing upon an original application for a license. The licensee may appeal a denial pursuant to Section 8.32.080(I). (Reg.G-59-81 § 8, 1981).

8.32.110 Escort bureau duties. (A) The escort service shall provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.

(B) The escort bureau shall maintain an open office at the licensed location during all hours escorts are working. The address of that office shall be included in all patron contracts and published advertisements. Private room or booths where the patron may meet the escort shall not be provided at the open office or at any other location by the escort bureau. Violation of this provision shall be grounds for license revocation. (Reg. G-59-81 § 9, 1981).

8.32.120 Advertising – Implying services other than service oriented escorts. (A) Any publication, dissemination, display whether by hire, contract or otherwise by any escort, escort bureau, or owner, manager or employee of an escort bureau within the

scope of this chapter directly or indirectly in any newspaper, magazine, or other publication, by any radio, television, telephone or pictorial display, publication or other advertising media which contains any statement which is known or through the exercise of reasonable care would suggest to a reasonable, prudent person that any service other than that of service oriented escorts, as defined in Section 8.32.060 is provided by the escort bureau is prohibited.

(B) Any word, phrase or combination of words used in any advertisement which implies a service other than that of service oriented escorts, or which gives the public a basis to believe that sexual stimulation or sexual gratification, or any form of sex service is provided is prohibited within the intent of this section. The following terms and words may, depending upon the context used, be deemed by the licensing board to convey that sexual stimulation or sexual gratification is offered:

"The utmost in discretion", "All our escorts have health certificates", "All our models have health certificates", "Bodies beautiful and girls galore", "Call us and make your point", "Call us we come to you", "Climax", "Models", "Couples and swingers", "Desires", 'Direct to your room", "Do you want a swinger", "Dominance", "Double delight", "Erotic encounters", "Erotic", "Exciter", "Fantasies", "Fetishes", "For adults only", "Fox hunting", "Fulfill", "Girls to go", "Hard care", "Hot", "It's legal in Nevada", "Love", "Maid", "maids", "or "maid service", "Make your point", "Massages", "Models, girls, escorts to act out your fantasies", "No need to leave your hotel room", "No need to leave your hotel", "Nude models", "Open 24 hours for your desires", "Open 24 hours for your pleasure", "Outcall", "Rooms provided", "Satisfy", "Seductive", "Sensuous", "Sexy", "Showers", "Showgirls", "models", "actresses", "Showguys", "So good", "Someone to enjoy", "Special services", "Spend some time with me", "Spice or spicy", "Submit to pleasure", "Swingers and couples", "Swinging", "Tantalizing", "The pleasure is yours", "Two for one", "Warm", "We come direct to you", "We deliver", "We deliver the goods", "We go out", "We have a model, escort or girl for your every need", "We respond immediately", "You always win", "You won't be disappointed".

(C) It is unlawful to advertise or hold out to the public the availability of an escort or escort bureau without obtaining a license therefore as provided in this chapter, whether the actual business of escorts or escort bureau as defined in this chapter is performed or not.

(D) Any photograph, picture, drawing, sketch, pictorial representation, verbal or written description, used in any escort or escort bureau advertisement, in any of the advertising media showing or depicting an escort, or representation of an escort in an unclothed state, or attired in clothing which shows the human male or female genitals, pubic area or buttocks with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernable turgid state, is prohibited and shall be presumed to be advertising the availability of sexual stimulation or sexual gratification. (Reg. G-59-81 § 10, 1981).

8.32.130 Cease and desist orders. The licensing board or director may issue an order requiring a license to cease and desist any violation of this chapter if the licensing board or the director, upon investigation, determines that a licensee has violated any provision of this chapter. The licensee may appeal to the licensing board any cease and desist order issued by the director. Said appeal shall be placed on the agenda of the

licensing board for the licensing board meeting following fifteen days from receipt of written notice of appeal. The appeal shall state all facts and law upon which the licensee shall rely to establish the error of such order. The remedy of appeal to the licensing board shall be exhausted prior to the institution of an action for judicial review in all cases of license denial, refusal to renew, or orders of cease and desist. (Reg. G-59-81 § 11, 1981).

8.32.140 Suspension or revocation of license. A license may be suspended or revoked after notice and hearing as provided in Chapter 8.08 of licensing board regulations upon a finding that the licensee has committed one or more of the following acts:

(a) Continued to violate any of the provisions of this chapter after issuance of a cease and desist order regarding that violation; or

(b) Committed or been convicted in any court subsequent to the filing of the application for a license of a felony or any crime involving moral turpitude, fraud, deception, false pretenses, misrepresentation, false advertising, prostitution, or pandering;

(c) Made intentional misrepresentations, or concealed material facts in an application for a business license; or

(d) Been convicted of, committed, or been enjoined in a civil action of any of the offenses provided in Section 8.32.080(B)(2); or

(e) Used or employed escort bureau runners; or

(f) If a partnership, limited partnership, or corporation, failed to remove any partner, officer, director or stockholder convicted of any offense as described in Section 8.32.080(B)(2) immediately upon learning of the conviction;

(g) Failed to keep accounting records capable of audit and certification of groos receipts by a certified public accountant, or refused to provide access to such records for audit by business license investigators; or

(h) Failed to update its license application as required herein; or

(i) Failed to pay any license fees due hereunder; or

(j) Failed to maintain an open office at all hours escorts are working; or

(k) Advertised that services other than service oriented escorts are available; or

(l) Published advertisements which contain phone numbers of the escort service or escort bureau without giving the address of that business; or

(m) Advertised, either directly or by implication, that sexual stimulation or sexual gratification is available; or

(n) Continued to employ or use an escort who has been convicted of prostitution after notification by the Las Vegas Metropolitan police

Appendix III

CLARK COUNTY, NEVADA
COUNTY CODE

Title 8 LIQUOR AND GAMING LICENSES AND REGULATIONS*

Chapter 8.32 ESCORT SERVICES

8.32.010 Findings.

The Clark County liquor and gaming license board finds:

(A) The 1979 Nevada Legislature (S.B. 396) granted the exclusive power to control and/or license and/or regulate escort services to the county license board (merged with liquor board now known as Clark County liquor and gaming licensing board) which board licenses businesses which tend to be injurious and deleterious.
(B) The Clark County board of commissioners on November 7, 1978, held a public hearing, which board consisted of the present members of the Clark County liquor and gaming licensing board, which board of county commissioners enacted Ordinance 595 which made certain findings which are found by this board to be accurate, and true and in accordance with the conduct of escort services operating in Clark County. This board adopts the record, minutes, and findings of the board of county commissioners of said date as the basis upon which to enact this regulation, in addition to facts of which it takes legislative notice.
(C) Based upon the above, the Clark County liquor and gaming licensing board determines that the operation of a business of providing escorts (as herein defined) is detrimental to the health and safety of the public, community, and tourists, that such a business is offensive to the public morals and decency; that such a business is detrimental to the continued economic development of the county and tends to degrade the county as a provider of good entertainment, and is harmful to the cause of attracting tourists, visitors, and conventions to the county; it having been established that the escorts and escort bureaus have:
(a) Engaged in fraudulent, misleading and deceptive advertising which is designed to make the prospective client believe that acts of prostitution (as defined in Section 12.08.010 of this code) will be provided;
(b) Collected money in advance for the promise of acts of prostitution and refused to provide same unless additional money is paid to the escort as a tip, token or gratuity;
(c) Forced other escort services out of business by threats and by intimidation have taken over other escort bureaus;
(d) Failed, neglected and refused to comply with legitimate ordinances requiring weekly health examinations for infectious disease, resulting in a higher incidence of infectious contagious disease than that of licensed Nevada brothels;
(e) Used as escorts, persons known to have violated the law regarding prostitution, and refuse to cease their use;
(f) Required escorts to pay the escort bureau as much as five hundred fifty dollars per week for introductions to patrons;
(g) Operated primarily as an employment agency without acquiring a state license therefor or complying with state law, as required in NRS Chapter 611;
(h) Employed "escorts" without providing Nevada Industrial Insurance or employment security benefits therefor;
(i) Defrauded patrons by sending escorts other than those for which contract was made;
(j) Refused to refund fees paid by patrons upon a patron's complaint of failure to satisfy contractual agreement;

(k) Submitted fraudulent and incomplete financial records for the purpose of computing license tax;
(l) Operated unlicensed escort bureaus and violated valid court orders;
(m) Refused to protect escorts sent out by them resulting in the rape, assault and robbery thereof;
(n) Given Las Vegas and Clark County the reputation of the "Prostitution Capitol of the World";
(o) Operated escort bureaus as a "call girl" prostitution operation;
(p) Operated only on an "out call" basis;
(q) Admitted in judicial proceedings they are unable to control the acts of the escort to prevent acts of prostitution while with a patron;
(r) Admitted in judicial proceedings that the business relationship between an escort and an escort patron was the "private sex life of an individual";
(s) Admitted in judicial proceedings their business is of the nature of a dancehall and within the jurisdiction of the license board rather than the board of county commissioners. Thus, admitting the escort bureaus to be a privileged business;
(t) Defined "escort bureau" in judicial proceedings as "a business which furnished persons who make a business or profession of being a date or companion to another." (Reg. G-50-79 § 17 (part), 1979)

8.32.040 Unlawful to conduct an escort bureau business without license.

It is unlawful for any person to conduct, manage, operate, or maintain an escort bureau business within the county unless licensed pursuant to this chapter. (Reg. G-59-81 § 2, 1981: Reg. G-50-79 § 17 (part), 1979)

8.32.050 Unlawful to work as an escort -- Exceptions.

It is unlawful for any person to work or perform services as an escort in the county unless employed by a licensed escort bureau or licensed as an escort bureau. (Reg. G-59-81 § 3, 1981: Reg. G-50-79 § 17 (part), 1979)

8.32.060 Definitions.

(A) An "escort" is a person who is held out to the public to be available for hire and who for monetary consideration in the form of a fee, commission, salary, to consort with, or accompanies or who offers, for monetary consideration, to consort, or accompany, another or others to or about social affairs, entertainments or places of amusement or within any place of public resort or within any private quarters.
(1) A "service oriented escort" is an escort which:
(a) Operates from an open office; and
(b) Does not employ or use an escort runner; and

(c) Does not advertise that sexual conduct will be provided to the patron or work for an escort bureau which so advertises; and
(d) Does not offer or provide sexual conduct.
(2) A "sexually oriented escort" is an escort which:
(a) Employs as an employee, agent or independent contractor an escort bureau runner; or
(b) Works for, as an agent, employee, contractor, or is referred to a patron by a sexually oriented escort bureau; or
(c) Advertises, that sexual conduct will be provided, or works for, as an employee, agent or independent contractor or is referred to a patron by an escort bureau which so advertises; or
(d) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the escort bureau; or
(e) Works as an escort without having a current work identification card issued for the referring escort bureau in his or her possession at all times while working as an escort; or
(f) Accepts a fee from a patron who has not first been delivered a contract.
(B) An "escort bureau" is a person, as defined herein, which for a fee, commission, profit, payment or other monetary consideration, furnishes, refers or offers to furnish or refer escorts, or provides or offers to introduce patrons to escorts.
(1) A "service oriented escort bureau" is an escort bureau which:
(a) Maintains an open office at an established place of business; and
(b) Employs or provides only escorts which possess work identification cards; and
(c) Does not use an escort bureau runner; and
(d) Does not advertise that sexual conduct will be provided to a patron.
(2) A "sexually oriented escort bureau" is an escort bureau which:
(a) Operates in any of the manners described in Section 8.32.010(C)(a), (b), (e), (k), (o); or
(b) Does not maintain an open office; or
(c) Employs as an employee, agent or independent contractor, uses an escort bureau runner; or
(d) Advertises, that sexual conduct will be provided, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron; or
(e) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron; or
(f) Employs, contracts with or provides or refers escorts who do not possess work identification cards as required herein and in Chapter 8.24 of the Clark County Code; or
(g) Does not deliver contracts to every patron or customer; or
(h) Employs, contracts with a sexually oriented escort or refers or provides to a patron, a sexually oriented escort.
(C) "An escort bureau runner" is any third person, not an escort, who for a salary, fee, hire, reward, or profit, as the agent for an escort bureau or a patron by contacting or meeting with escort patrons or escort bureaus at any location other than the established open office whether or not said person is employed by such escort bureau or by another business or is self-employed.
(D) An "escort patron" is a customer or any person who contracts with, or employs, or for monetary consideration hires an escort bureau or escort for purposes of hiring an escort.

(E) "Licensing board" is the Clark County liquor and gaming licensing board as defined in Chapter 3.40 of the Clark County Code.
(F) "Person" is any individual, partnership, limited partnership, firm, corporation or association in fact.
(G) An "offer to provide acts of sexual conduct" means to offer, propose or to solicit to provide sexual conduct to a patron. Such definition includes all conversations, advertisements and acts which would lead a reasonably prudent person to conclude that such acts were to be provided.
(H) An "open office" is an office at the licensed escort bureau address from which escort business is transacted; to qualify as an open office it is required that:
(1) The office be open to the public and patrons or prospective patrons from nine a.m. and seven p.m. and that the office be accessible to business invitees, business license officials and law enforcement officers through a security system during all other hours that escorts are working;
(2) The office be managed by the owner or a management employee of the owner having authority to bind the bureau to escort and patron contracts and adjust patron and consumer complaints;
(3) All telephone lines and numbers listed to the escort bureau, or advertised as escort bureau numbers terminate at the open office and at no other location;
(4) An index of all employees and escorts and their work card numbers be kept in the open office;
(5) All business records required to be kept by Section 6.08.090 shall be kept in the open office. "Records of gross sales" which are required to be kept include records of escort calls and referrals, stating the name and address, including hotel or motel room, of the patron, the date and time of referral, name of escort sent and whether or not the referral resulted in an escort service and the total fee received from the patron, if any.
(I) A "licensee" is a person who is the holder of a valid license under this title. Licensee includes an agent, servant, employee or other person while acting on behalf of that licensee whenever such licensee is prohibited from doing a certain act under this title.
(J) "Sexual conduct" means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttock or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.
(L) "County" means, unless otherwise indicated, that portion of Clark County outside the incorporated cities and towns, both within and without the unincorporated cities and towns.
(M) "Director" means the director of the department of business license of Clark County.
(N) "Suitable" means a finding by the licensing board that a person qualifies for licensure within this chapter and has not been convicted of a felony within ten years prior to application and does not have associates with such convictions or who are associated with organized crime.
(O) "Police department" means the Las Vegas metropolitan police department.
(P) "Associate" means any person who controls, is controlled by, or is under common control with a licensee, including a person who, whether disclosed or not:
(1) Is a general partner, limited partner, officer, director or employer of the applicant or licensee; or

(2) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies of the voting interest in the licensee or applicant; or
(3) Controls the election of a majority of the directors of the licensee or general partner of the licensee; or
(4) Has contributed any capital to the licensee or applicant unless the contribution secured by collateral, the value of which is equal to the amount of the contribution, and unless there is a promise to repay the contribution on a strict schedule regardless of the earnings, profits or receipts, and said promise is kept within the limits of commercial banking practices;
(5) Sponsors, procures or pays for advertisements, pays for or is contractually liable for telephone services, or promises or advances, loans or expends any money to pay license fees, office or start-up expenses without collateral and a promise to repay as is required in subdivision (4) of this subsection.
(Q) "Sexual stimulation" means to excite or arouse the prurient interest or to offer or solicit acts of sexual conduct as defined under "offer to provide acts of sexual conduct" in subsection (g) of this section.
(R) "Sexual gratification" means sexual conduct as defined in subsection (d) of this section.
(S) "Sexually oriented acts" means sexual conduct as defined in subsection (J) of this section. (Reg. G-73-85 § 2, 1985: Reg. G-59-81 § 4, 1981: Reg. G-50-79 § 17 (part), 1979)

8.32.070 Work identification cards required.

(A) All escorts, owners, managers, officers, directors and employees of escort bureaus are required to obtain work identification cards pursuant to the regulation codified as Chapter 8.24 of the Clark County Code.
(B) In addition to grounds for denial of work identification cards, set out in Section 8.24.050(B) the Las Vegas metropolitan police department may deny a work card if the applicant has been convicted of prostitution, pandering, soliciting or any crime listed in NRS 201.300 through NRS 201.440, inclusive, or of owning, managing or operating an illegal or unlicensed brothel or received payment or portion of profits therefrom, or been convicted of conspiracy, fraud or obtaining money under false pretenses, or has worked as a sexually oriented escort or operated a sexually oriented escort bureau. The conviction of any of the above crimes or an act of sexual conduct or solicitation for such act by a holder of a work card may be grounds for suspension or revocation of an escort license or work card by the licensing board.
(C) The escort bureau shall keep a current list of all escorts at the licensed business location. Said list shall contain the name and work identification card number of each escort and shall be available during all business hours for inspection by licensing officials, and agents of the Las Vegas metropolitan police department.
(D) Las Vegas metropolitan police department may issue a ninety-day temporary work identification card pending complete investigation, if available evidence does not support the immediate granting or denial of a permanent card. No person required to obtain a

work identification card pursuant to this chapter shall be licensed or work as an escort without either a temporary or permanent work card. The temporary work card may be extended only once without the consent of the licensing board. (Reg. G-73-85 § 3, 1985: Reg. G-59-81 § 5, 1981: Reg. G-50-79 § 17(part), 1979)

8.32.080 Applications, investigation and license issuance.

An escort bureau license is a privilege. A license shall not be issued for the operation of an escort bureau unless the applicant proves by clear and convincing evidence the good character, honesty and integrity of the applicant and its officers, directors, owners and management staff. A separate license is required for each fictitious name under which a person conducts business. Only one license shall be issued for each person for whom a finding of suitability is required under the terms of this code. All business expenses are made at the applicant's risk, as the license may terminate prior to amortization thereof.

(A) All persons desiring to obtain a business license to engage in an escort bureau business within the county shall first file an application with the director on a form provided by his office. All persons who furnish property or services to a licensee under any arrangement pursuant to which the person receives payments based on earnings, profits or receipts from the escort bureau must file an application pursuant to this section and be found suitable by the licensing board.

(B) All applicants shall provide the following information under oath:

(1) Whether the applicant has ever been convicted by any state or federal court within the past ten years of any misdemeanor or felony other than minor traffic offenses;

(2) A list of convictions for all pandering, prostitution, soliciting, thefts, fraud, obtaining money under false pretenses, embezzlement or any criminal convictions involving the use of force or violence upon the person of another; or adverse civil action judgments involving allegations pertaining to fraudulent advertising, sales or trade practices, and a detailed explanation of the circumstances;

(3) The complete address (including suite number) of the proposed business location in the county, with a copy of the deed, lease or other document pursuant to which applicant occupies such premises;

(4) The person or persons who will have custody of the business records at the business location;

(5) Agent for service of process;

(6) Applicant's family, residential, education, military and criminal history background, covering at least a ten-year period immediately preceding the date of filing of the application;

(7) A complete description of the exact nature of the business to be conducted, including office organization, advertising theme and method, employee qualifications and copies of contracts to be used with escorts and patrons;

(8) Applicant's business and employment history, stating whether or not the applicant, or applicant's manager, director, officer, partner or stockholder(s) have had any business license revoked or suspended and stating the details thereof, including the reasons therefor;

(9) The names, current addresses and written statements of at least five bona fide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of Clark County, then the state of Nevada, and lastly from the United States;
(10) Applicant's financial statement and current and previous business activities and associates, covering at least a ten-year period immediately preceding the date of filing of the application.
(C)(1) If an applicant is a partnership or limited partnership, all application information listed in subsection (B) of this section shall be provided for all of the partners, including, if applicable, limited partners, the same as if each were a sole proprietor and applicant;
(2) If an applicant is a corporation, all application information listed in subsection (B) of this section shall be provided for each of the directors, officers and shareholders holding ten percent or more of the stock of the corporation, the same as if each were a sole proprietor and applicant;
(3) If applicant is a partnership or limited partnership, it shall provide a certified copy of an agreement or articles of partnership or limited partnership and certificate;
(4) If applicant is a corporation, the application shall be accompanied by:
(a) A certified copy of the articles of incorporation of such corporation and, if incorporated under the laws of another state, a certificate of qualification to do business in the state of Nevada; and
(b) A current annual list of officers, directors and resident agent of such corporation; and
(c) A list of the stockholders, the last known residence address and telephone number of each, and their respective ownership interests in such corporation certified as being true and correct by the secretary of such corporation ; and
(d) A certified copy of all minutes or resolutions by the board of directors of such corporation authorizing such license application and designating the officer to apply on such application and authorizing his verification thereof.
(5) If such business is to be conducted under a name other than the legal name of the applicant, the application must be accompanied by a copy of the fictitious name certificate on file with the county clerk of Clark County, Nevada;
(6) All officers, directors or shareholders which own, directly or constructively, ten percent or more of the outstanding stock of the corporation, and the managing agent of the corporation must be investigated for determination of suitability as set forth in this chapter.
(D) The applicant shall supplement the application by submitting a written plan setting forth the method of operation of the escort bureau, which shall include, but not be limited to:
(1) The hours that the escort bureau will be open to the public (said hours shall include all hours any escorts are with a patron); and
(2) The methods of promoting the health and safety of escorts and protecting them from assault, battery and rape; and
(3) The methods of supervision of employees to prevent the escort from charging the patron any fee which is in addition to the fee paid to the escort bureau by the patron; and
(4) The methods of supervision which will prevent the escorts from soliciting acts of prostitution or offering to provide sexual stimulation or sexual gratification; and

(5) The Federal Employer's Identification number and Nevada Industrial Commission policy number; and
(6) The name and the address of the certified public accountant who will certify the gross receipts upon application for renewal license; and
(7) The applicant shall submit a statement disclosing the names of all persons who have invested in the proposed escort bureau, and who will share in or receive a percentage of the profit or return from the proposed escort bureau; and
(8) The method of compensating escorts.
(E) The failure to truthfully disclose any of the information required by subsections (B), (C) and (D) of this section or the failure to make a full disclosure of all facts required shall be grounds for denying the license or, if subsequent to issuance of a license it is discovered that any applicant or person required to be investigated has not been completely truthful or has withheld any facts in answering the above questions, such failure shall be grounds for revoking the license.
(F) After the filing of a completed application and payment of all fees, the applicant shall be referred to the Metropolitan Police Department for fingerprinting, investigation and reporting as required in this chapter.
(G) The result of said investigation shall be given to the director within sixty days, or as soon thereafter as possible.
(H) The director shall place the application on the agenda for the next meeting of the licensing board which occurs subsequent to ten days from receipt of the report from the Metropolitan Police Department.
(I) The licensing board shall not grant the license unless it is satisfied that the applicant is suitable in all respects. The applicant must be:
(1) A person of good character, honesty and integrity;
(2) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of the county or to the effective regulation and control of prostitution, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of an escort bureau or the carrying on of the business and financial arrangements incidental thereto; and
(3) In all other respects qualified to be licensed or found suitable consistently with the declared policy of this chapter.
(J) The license board has full power to deny any application:
(1) If the applicant has not satisfied the licensing board that the proposed financing of the entire operation is from a suitable source; any lender or other source of money or credit which the licensing board finds does not meet the standards set forth in subsection (I) of this section may be deemed unsuitable; or
(2) If the license application is incomplete so as to not contain all information required by this chapter; or
(3) If all license and investigation fees are not paid; or
(4) If the applicant or any of its principals has been convicted of a crime listed in subsection (B)(2) of this section or has been enjoined in an adjudicated civil action from engaging in fraudulent advertising or sales or trade practices; or
(5) If the applicant, based upon his activities since the enactment of these regulations, has or has an associate who has operated a sexually oriented escort bureau; or

(6) If the applicant, based upon the content of his application, intends to operate an escort bureau in a sexually oriented manner; or
(7) If the applicant or partner, stockholder, officer, director or associate has had an escort license previously revoked or denied for any ground contained in this section or in Section 8.32.140; or
(8) If the applicant, its partners, officers or directors do not qualify for or have not obtained work identification cards as required in Section 8.32.070; or
(9) If the applicant's financial statement, business activities, background or associates disclose that unsuitable persons are or will be involved in the management or conduct of the day-to-day business affairs of the escort bureau; or
(10) If the applicant's financial statements, business activities, background or associates disclose that unlicensed or unsuitable persons have or will have an interest in the ownership of or have an equitable or beneficial right to the profit of the escort bureau; or
(11) For any cause deemed reasonable. (Reg. G-66-83 § 1, 1983: Reg. G-59-81 § 6, 1981: Reg. G-50-79 (part), 1979)

8.32.090 Investigation fees.

All applicants or other persons for which an investigation is required shall pay investigation fees as required by Section 8.08.230. (Reg. G-91-88 § 2, 1988: Reg. G-59-81 § 7, 1981)

8.32.095 License fees.

The initial fee shall be determined as provided in Section 6.08.090 of this code, based upon the gross receipts rate set forth in Section 6.12.835. Thereafter, all license fees shall be paid on a semiannual period based upon the rate set forth in Section 6.12.835 of this code. (Reg. G-66-83 § 2, 1983)

8.32.100 License renewal.

The escort bureau license terminates at the end of each semiannual period and must be renewed by filing an application for renewal of escort bureau license on a form to be provided by the director, which form shall be completed under oath. The application shall contain a financial statement as required in Section 8.32.080(B)(10) if not previously provided, a list of all persons receiving any portion of the net profits of the business, the names and work card numbers of all escorts and whether there have been any changes in any answers to the information supplied with the original application. The application for renewal and all required information shall be filed thirty days prior to the expiration of the semiannual licensing period and shall be referred to the police department for review. (Reg. G-66-83 § 3, 1983: Reg. G-59-81 § 8, 1981)

8.32.110 Escort bureau duties.

(A) The escort service shall provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.
(B) The escort bureau shall maintain an open office at the licensed location during all hours escorts are working. The address of that office shall be included in all patron contracts and published advertisements. Private room or booths where the patron may meet with the escort shall not be provided at the open office or at any other location by the escort bureau. Violation of this provision shall be grounds for license revocation.
(C) The escort bureau, in terms of licensing consequences, is responsible and liable for the acts of all its employees and subcontractors including, but not limited to, telephone receptionists and escorts who are referred to that bureau while the escort is with the patron.
(D) The escort bureau shall commence business from an open office within thirty days after issuance of the license. In the event an escort bureau licensee shall not commence business in an open office within thirty days after issuance of a license, or shall discontinue business or close the open office for a period of thirty days without specific approval of the licensing board, such license shall terminate and be revoked automatically, without action by the board. (Reg. G-73-85 § 4, 1985: Reg. G-59-81 § 9, 1981)

8.32.120 Advertising -- Implying services other than service oriented escorts.

(A) Any publication, dissemination or display whether by hire, contract or otherwise by any escort, escort bureau or owner, manager or employee of an escort bureau within the scope of this chapter directly or indirectly in any newspaper, magazine or other publication, by any radio, television, telephone or pictorial display, publication or other advertising media which contains any statement which is known or through the exercise of reasonable care would suggest to a reasonable, prudent person that sexual stimulation or sexual gratification is offered or provided, is prohibited.
(B) Any word, phrase or combination of words used in any advertisement which imply that the escort or escort bureau offers or provides sexually oriented acts or operates in a sexually oriented manner, or which give the public a basis to believe that sexual stimulation or sexual gratification, or any form of sex service is provided, is prohibited within the intent of this section.
(C) It is unlawful to advertise or hold out to the public the availability of an escort or escort bureau without obtaining a license therefor as provided in this chapter, whether the actual business of escorts or escort bureau as defined in this chapter is performed or not.
(D) Any photograph, picture, drawing, sketch, pictorial representation, verbal or written description, used in any escort or escort bureau advertisement, in any of the advertising media showing or depicting an escort, or representation of an escort in an unclothed state, or attired in clothing which shows the human male or female genitals, pubic area or

buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state, is prohibited and shall be presumed to be advertising the availability of sexual stimulation or sexual gratification. (Reg. G-66-83 § 4, 1983: Reg. G-59-81 § 10, 1981)

8.32.130 Cease and desist orders.

The licensing board or director may issue an order requiring a licensee to cease and desist any violation of this chapter if the licensing board or the director, upon investigation, determines that a licensee has violated any provision of this chapter. The licensee may appeal to the licensing board any cease and desist order issued by the director. Said appeal shall be placed on the agenda of the licensing board for the licensing board meeting following fifteen days from receipt of written notice of appeal. The appeal shall state all facts and law upon which the licensee shall rely to establish the error of such order. The remedy of appeal to the licensing board shall be exhausted prior to the institution of an action for judicial review in all cases of license denial, refusal to renew, or orders of cease and desist. (Reg. G-59-81 § 11, 1981)

8.32.140 Suspension or revocation of license.

A license may be suspended or revoked after notice and hearing as provided in Chapter 8.08 of licensing board regulations upon a finding that the licensee, its agent, employee, escort, partner, director, officer, stockholder, manager (key employee) or person exercising managerial authority of or on behalf of the licensee has committed one or more of the following acts:

(a) Continued to violate any of the provisions of this chapter after issuance of a cease and desist order; or

(b) Conviction in any court subsequent to the filing of the application for a license of a felony or any crime involving moral turpitude, fraud, deception, false pretenses, misrepresentation, false advertising prostitution, solicitation of prostitution, aiding and abetting an act of prostitution as defined in Chapter 12.08 of the Clark County Code, violated NRS 201.255 or 47 USC 223, or pandering;

(c) Knowingly made any false, misleading or untruthful statements, intentional misrepresentations of a material fact, or concealed material facts in an application for a business license, or report or record required to be filed with the board. It is presumed any information in an application, report or record is made knowingly if signed by the applicant or authorized agent; or

(d) Committed any act which is included within the definition of a sexually oriented escort bureau; or

(e) Conducted the escort bureau in any manner which would be grounds for denial as stated in Section 8.32.080(I) and (J), (J)(1), (3), (4), (5), (9), (10), (11);or

(f) Violated any provision of this title, chapter, or been convicted of any crime set out in any statute, ordinance or regulation relating to the licensed activity; or

(g) Conducted or advertised an escort business under an unlicensed fictitious name, or at an unlicensed address; or
(h) Published, uttered, disseminated or conveyed, either publicly or privately, to an individual any false, deceptive or misleading statements or advertisements in connection with the operation of a business licensed hereunder; or
(i) Maintained the business in a structure or building which is structurally unsafe, or not provided with adequate egress, or which constitutes a fire hazard, or which is otherwise dangerous to human life or safety, or which in relation to existing use constitutes a hazard to safety or health or public welfare; or
(j) Conducted or maintained the business in a manner contrary to the peace, safety, general welfare or morals of the community; or
(k) Committed any act constituting dishonesty or fraud, or committed any unlawful, false, fraudulent, deceptive or dangerous act while conducting business;
(l) Otherwise violated any provisions of this chapter.
If the licensing board finds that after notice and hearing the licensee has violated any provision for which revocation could be ordered, it may suspend the license or allow continued operation upon compliance with specific conditions. (Reg. G-73-85 § 5, 1985: Reg. G-59-81 § 12, 1981)

8.32.150 Exemptions.

All professions, employments and businesses which are licensed by the state of Nevada or county of Clark pursuant to a specific statute or ordinance, and all employees employed by a business so licensed, and which perform an escort or escort bureau function as a service merely incidental to the primary function of such profession, employment or business and which do not hold themselves out to the public as an escort or escort bureau, are exempt from licensing pursuant to this chapter. Any employment agency, licensed by the state,which provides escorts as defined herein, must, however, obtain a license as required by this chapter. (Reg. G-59-81 § 13, 1981)

Appendix IV

CLARK COUNTY, NEVADA
COUNTY CODE

Title 6 BUSINESS LICENSES*

Chapter 6.140 OUTCALL PROMOTERS AND ENTERTAINERS

6.140.010 Findings.

The Clark County liquor and gaming licensing board and the board of county commissioners of Clark County find that:

For several years preceding 1986, escort bureaus had been operating as modified brothels in Clark County, engaging in the business of sending "escorts" to hotel and motel rooms for the purposes of prostitution. Disciplinary action was brought against each of the escort services resulting in a surrender or revocation of their business license. The escort business, then instituted a new business method, by obtaining promoter's licenses and offering in response to a telephone call, what they purported to be "entertainment." Police undercover activities have established that these promoters are actually operating as modified brothels, sending individuals to hotel and motel guestrooms for the purpose of prostitution under the subterfuge of "entertainment." The cover of the First Amendment has materially increased the burden of policing this business to decrease the incidence of prostitution and drug sales.

The purpose of the ordinance codified in this chapter is to regulate the outcall entertainment business to the end that many types of criminal activities will be curtailed, without de facto prohibiting or curtailing protected expression. This chapter represents a balancing of the legitimate ends of the community by imposing an incidental, content neutral place, time and manner regulation on the outcall promoter business, without limiting alternative avenues of communication, and at the same time, requiring the business to carry its share of financing law enforcement activities.

Note: The use of the words "entertainment" or "entertainer" does not mean or imply that the conduct offered by outcall promoters or the conduct in which persons referred by said promoters engage is the type or form of entertainment which involves expression protected by the First Amendment to the Constitution of the United States or that there has been a finding by the board of county commissioners that such entertainment is provided. The term "entertainment" is used because it is by that term the promoters refer to themselves in advertisement and it is convenient to use so as to distinguish, for indexing purposes, between the businesses defined herein, and other businesses which legitimately deliver goods or services off their business premises. (Ord. 1340 § 1, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.020 Definitions.

As used in this chapter, unless the context otherwise requires or the words are otherwise defined below, the words and terms used in this chapter have the definitions set out in Chapters 12.08, 12.14, 12.20, 8.24 and 8.32 of the Clark County Code, and as ascribed to them in this section as follows:

(a) "Applicant" means the person or business entity applying for a license, permit or work identification card and includes all officers, directors, stockholders, partners and all persons or business entities which share in profits.

(b) "Entertainment" means something affording pleasure, diversion, or amusement (i.e., a performance of some kind) in a hotel or motel guest room by one or more entertainers for a fee.

(c) "Outcall" or "entertainment by referral" service means a person or group of persons who send or refer another person to a hotel or motel guest room for a fee in response to a telephone call or other request for the purpose of entertaining the person located in the hotel or motel guest room.

(d) "Business entity" means a group of persons, partnership, corporation, joint venture or other business association.
(e) "Person" means a singular individual.
(f) "Entertainer" means the person referred by the outcall entertainment business entity (entertainment by referral service), to visit the hotel or motel guest room of a patron for a fee for the purpose of providing entertainment to the person or persons in the hotel or motel guest room.
(g) "Patron" means a person who requests an entertainer visit a hotel or motel guest room and either pays or agrees to pay the fee for such visit.
(h) "Manager" means the responsible person employed by the outcall entertainment promoter (entertainment by referral service) to manage, supervise or oversee the day-to-day business operations of the outcall entertainment business (entertainment by referral service), and act as licensee's agent.
(i) "Outcall promoter" means a person or business entity holding him, her or itself out as a source of outcall entertainers (entertainers by referral service) or one who engages in the business of providing outcall entertainment (entertainment by referral service) for a fee. For the purposes of this chapter, self-employed outcall entertainers are also considered "outcall promoters."
(j) "Gross revenue" means gross earnings or gross receipts received by the outcall promoter (entertainment by referral service) from all business-related sources.
(k) "Basic licensee's fee" means the fee announced, advertised or told by telephone communication or any other means, by an outcall entertainment business (entertainment by referral service) to a patron as the fee for providing outcall entertainment.
(l) "Prostitution" means engaging in sexual intercourse, oral-genital contact, anal-genital contact or any touching of the sexual organs, pubic region or female breast of a person with the intent of arousing or gratifying the sexual desire of either person for monetary consideration, whether by credit, cash, check or other consideration. (Ord. 1421 § 1, 1992: Ord. 1340 § 2, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.030 Exemptions

. The following entertainment services are exempt from the provisions of this chapter so long as the location is licensed for the activity provided or arranged for:
(1) Entertainment services provided or arranged by a hotel or motel to a patron of that hotel or motel for a fee paid to that hotel or motel in response to a telephone call or other request;
(2) Entertainment services to a hotel or motel room for a group event (room capacity in excess of twenty persons) that is authorized by the hotel or motel in which the event is to take place. (Ord. 1421 § 2, 1992)

6.140.040 Outcall promoter license required.

It is unlawful for any person or business entity to engage in business as an outcall promoter within the unincorporated areas of Clark County without first obtaining an outcall promoter license therefor as provided in this chapter. (Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.050 Entertainer work permit required.

It is unlawful for an entertainer to work as an entertainer or perform an entertainer function in the unincorporated areas of Clark County without first obtaining an outcall entertainer work permit. (Ord. 1421 § 3, 1992: Ord. 1340 § 3, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.060 Employment of entertainers.

It is unlawful for an outcall promoter to employ, contract with or refer an entertainer to a hotel or motel guest room unless the entertainer has a work permit as an outcall entertainer issued to work for that promoter. (Ord. 1421 § 4, 1992: Ord. 1340 § 4, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.070 Outcall entertainment manager.

(a) All businesses which are required to be licensed under this chapter shall have at least one responsible employee to conduct the affairs of the business on the premises and act as manager and licensee's agent at all times the business is open. If the licensee is a sole proprietor he may obtain a manager's permit if he otherwise qualifies.
(b) All managers shall file an application for a manager's permit with the director.
(c) The director shall issue or deny the outcall entertainment manager's permit within twenty working days from receipt of the application provided:
(1) His/her outcall entertainment manager permit has not been previously revoked;
(2) The applicant has not been convicted of prostitution, soliciting prostitution, living off the earnings of a prostitute, pandering, keeping of a disorderly house, unlawful advertising of a house of prostitution, exhibition or sale of obscene material to minors, crime against nature, rape, lewdness with a child under fourteen, use of a minor in pornographic performances, sexual intercourse while afflicted with an infectious or contagious disease, forgery or fraudulent use or billing of credit cards, manufacturing, distribution or sale of controlled substances within five years of the date of application; or
(3) The applicant has not been the sole proprietor, partner, officer, director, or manager of an escort service, brothel, or outcall promoter business which has had a license revoked, suspended or sanctioned within three years of the date of application; or
(4) The applicant has not violated any of the provisions of this chapter within two years of the date of application; or
(5) The applicant has not included any untrue, false or misleading information in the application.
(d) In addition to the grounds set forth in Section 6.140.160, the permit of the manager may be revoked or suspended upon written notice and hearing before the Clark County liquor and gaming licensing board or hearing officer upon findings that the manager or business entity licensed as an outcall promoter while the manager was on duty did not fully comply with all laws, rules and regulations set forth in Sections 6.140.130 and 6.140.140, or that the manager:

(1) Employed, contracted with or referred an entertainer who did not possess a valid work permit or who the manager knew or should have known had been convicted of prostitution or soliciting prostitution; or
(2) Referred an entertainer under the age of eighteen years when such referral violated curfew, liquor or gaming laws, or when the referral violated the Contributory Delinquency Statutes (NRS 201.090 et seq.); or
(3) Referred an entertainer who committed an act of prostitution or solicited prostitution from a patron or patron's companion; or
(4) Referred an entertainer for purposes of prostitution.
(e) If the applicant for a permit is denied by the director, the applicant may within thirty days of said denial file a written appeal to the director stating upon oath the grounds for such appeal. The liquor and gaming licensing board shall hear the appeal at the next regularly scheduled meeting after the filing of the appeal with the director subject to the open meeting law requirements. (Ord. 1421 § 5, 1992: Ord. 1340 § 5, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.080 Application for license.

(a) All applications for outcall promoter licenses required by this chapter shall be filed with the director on forms furnished by the director. The applications for outcall entertainment licensure shall include the following information, stated under oath:
(1) Whether the business or proposed business is the undertaking of a sole proprietorship, partnership, or corporation. If a sole proprietorship, the application shall set forth the name, address, telephone number and principal occupation of the sole proprietor and any criminal convictions, except traffic misdemeanors, and dates. If a partnership, the application shall set forth the names, aliases, criminal convictions and dates, addresses, telephone numbers, principal occupations, and respective ownership shares of each partner, whether general, limited or silent. If a corporation, the application shall set forth the corporate name, a copy of the articles of incorporation, and the names, aliases, criminal convictions and dates, addresses and telephone numbers and principal occupations of every officer, director and shareholder (having more than ten percent of the outstanding shares) and the number of shares held by each. In addition to the above, each sole proprietor, partner, officer, director and shareholder mentioned in this subsection shall set forth the trade name of each business with which he has been associated as a sole proprietor, partner, officer, director, stockholder, or manager which has been denied a business license, been the subject of disciplinary action, or had a business license revoked or surrendered and the dates of such license action (denial, discipline or revocation).
(2) The name, aliases, criminal convictions and dates, and principal occupation of the manager or managers and the trade name of each business with which the manager has been associated as a sole proprietor, partner, officer, director, stockholder, or manager which has been denied a business license, been the subject of disciplinary action, or had a business license revoked or surrendered and the dates of such license action (denial, discipline or revocation);

(3) The business name, business address, and business telephone number of the establishment or proposed establishment together with a description of the nature of the business;
(4) Applicant's financial statement and current and previous business activities and associates, covering at least a five-year period immediately preceding the date of filing of the application.
(5) Source and amount of any funds, loans, or investments to be used by the business for its startup or operation. (Ord. 1421 § 6, 1992: Ord. 1352 § 1, 1992: Ord. 1340 § 6, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.085 Investigation--Issuance of outcall promoter's license.

(a) Upon receipt of the completed application, and investigation fees pursuant to Section 6.08.115 and business license fees for outcall promoter, the director shall refer the outcall promoter to the metropolitan police department for fingerprinting, investigation and verification of the application and reporting back to the board.
The director shall place the application on the agenda for the next regularly scheduled meeting of the liquor and gaming licensing board which occurs subsequent to receipt of the report from the metropolitan police department pursuant to state open meeting law requirements.
(b) The liquor and gaming licensing board shall not grant the outcall promoter license unless it is satisfied that the applicant is suitable to be licensed or found suitable consistently with the declared policy of this chapter.
(c) The liquor and gaming license board has full power to deny any application:
(1) If the proposed financing of the entire operation is not from a suitable source, any lender or other source of money or credit which the licensing board finds does not meet the standards set forth in subsection (3), (4) or (8) of this section, the applicant may be deemed unsuitable;
(2) If the license application is incomplete so as to not contain all information required by this chapter;
(3) If all license and investigation fees as required in Section 6.08.115 and license fees are not paid;
(4) If the applicant has been convicted of prostitution, soliciting prostitution, living off the earnings of a prostitute, pandering, keeping of a disorderly house, unlawful advertising of a house of prostitution, exhibition or sale of obscene material to minors, crime against nature, rape, lewdness with a child under fourteen, use of a minor in pornographic performances, unlawful sexual intercourse while afflicted with an infectious or contagious disease, forgery, or fraudulent use or billing of credit cards, manufacture, distribution or sale of controlled substances within five years of the date of the application;
(5) If the applicant has been the sole proprietor, partner, officer, director, stockholder or manager of an escort service, brothel or outcall promoter business which has had a license revoked, suspended or sanctioned for any act listed in subsection (4) above, whether convicted or not within three years of the date of the application;
(6) If the applicant has violated any of the provisions of this chapter within two years of the date of application; or

(7) If the applicant has included any untrue, false or misleading information in the application;
(8) If the applicant has failed to disclose, misstated or attempted to mislead the sheriff or the board with respect to any material fact contained within any required application. (Ord. 1421 § 7, 1992: Ord. 1340 § 7, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.090 License issuance or denial

. The licensing board shall issue or deny the outcall promoter license to the applicant therefor within forty-five days from receipt of the application (day 45) upon compliance with the conditions required by this chapter.
(a) Upon the expiration of the forty-five days from receipt of application, the applicant may demand a license and begin operating the outcall entertainment business for which a license is sought, unless and until the director of business license notifies the applicant of a denial of the license application and states the reason for the denial. (This provision shall not create a reliance or estoppel situation as to this license or any other provision of this code.)
(b) If the application is denied, the director of business license shall notify the applicant with the reason(s) stated for denial. Notification shall be hand delivered or sent certified, United States Mail, return receipt requested, to the address provided on the license application which shall be considered the correct address. Each applicant has the burden to furnish any change of address to the director of business license, by United States certified mail, return receipt requested.
(c) In the event that an application is denied, the applicant may file or cause to be filed in the state court a petition for writ of review of the denial of the license as provided by NRS 34.010 through 34.140. (Ord. 1421 § 8, 1992)

6.140.095 Work permit required.

(a) All outcall entertainers, outcall promoters, managers, officers, directors and employees of outcall promoters are required to obtain a work permit that shall be issued or denied within twenty days from the date of application unless a temporary work permit is issued.
(b) Application for work permit shall be made to the director.
(c) An application for work permit shall be verified by the applicant and shall contain or set forth the following information:
(1) The applicant's name, home address (current and former), home telephone number, date of birth, and aliases (past or present), and social security number;
(2) The business name and address where the applicant intends to work;
(3) Criminal history.
(d) Applicants shall be accompanied by a fee pursuant to Section 16.12.562 and shall be referred to the metropolitan police department for fingerprinting and investigation pursuant to Section 6.08.115.

(e) The director shall deny a work permit for any of the conditions set out in subsection (c)(2), (3), (4), (5), (6), (7) or (8) of Section 6.140.085 as reported by the metropolitan police department after investigation.
(f) The conviction or plea of nolo contendere of any crime listed in subsection (c)(4) of Section 6.140.085 or failure to comply with all conditions of Sections 6.140.130 and 6.140.140 by the holder of a work permit may be grounds for suspension or revocation of an outcall promoter's license or work permit by the licensing board or director pursuant to procedures set out in Section 8.08.170 or 8.24.060.
(g) The outcall promoter shall keep a current list of all outcall entertainers whom it refers at the licensed business location. The list shall contain the legal name and any aliases and work permit number of each entertainer and shall be available during all business hours for inspection by licensing officials, and agents of the Las Vegas metropolitan police department.
(h) Director may issue a ninety-day temporary work permit pending complete investigation, if available evidence does not support the immediate granting or denial of a permanent card. No person required to obtain a work permit pursuant to this chapter shall be licensed or work as an outcall promoter without either a temporary or permanent work permit. The temporary work permit may be extended only once without the consent of the licensing board.
(i) An applicant whose permit has been denied by the director may appeal the decision within ten days of the denial to the liquor and gaming licensing board by written notification to the director who shall place it before the liquor and gaming licensing board at its next regularly scheduled meeting subject to the state open meeting law. The liquor and gaming licensing board shall hear the appeal by examination of:
(1) The verified application submitted by applicant;
(2) The applicant's criminal history and conditions set forth above in subsections (d) and (e) of this section.
(j) The board shall sustain the director's denial or grant the permit based on the evidence presented. The board shall grant a restricted or conditional permit if in its discretion the facts presented merit such permit. In the event that the permit is denied, the applicant may file or cause to be filed in the State Court a petition for writ of review of the denial of the license as provided by NRS 34.010 through 34.140. (Ord. 1421 § 9, 1992: Ord. 1340 § 8, 1991)

6.140.100 License fee.

The license fee for an outcall promoter license is one percent of the gross revenue received, to be paid on or before the fifteenth day succeeding the end of the semiannual license period. (Ord. 1340 § 9, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.110 Semiannual reports.

(a) Every person or business entity licensed pursuant to this chapter shall file with the department, in conjunction with the license fees, a report signed by the licensee or its

manager under oath that the report is true to his own knowledge, showing the amount of total gross receipts for the preceding six-month period;
(b) Each report must be accompanied by the amount of license fee which is due for the next license period;
(c) The provisions of Section 6.08.090 apply to licenses issued pursuant to this chapter including the "records of gross sales," "sales invoices and credit slips" referred to in subsection (d) of Section 6.08.090 in addition to those records required to be kept in Section 6.140.130;
(d) All reports required by this chapter to be filed with the director shall be sworn under oath by the manager or licensee of an outcall promoter's license, that the information contained therein is true to his personal knowledge. A bookkeeper or accountant may file the report for a licensee if the licensee appoints the bookkeeper or accountant as his agent for such purpose through written notice filed with the report. The document submitted shall contain the following statement and shall be sworn before an officer empowered to administer oaths:

I do hereby swear that the report of gross revenues attached hereto, is of my personal knowledge, complete, true and accurate.

_____
Signed, position

SUBSCRIBED and SWORN to before
me this _____ day of _____, 19_____.

_____
NOTARY PUBLIC in and for said County and State.

(Ord. 1421 § 10, 1992: Ord. 1340 § 11, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.120 Term of licenses.

All licenses provided for in this chapter shall be issued for semiannual periods which shall be as follows:
(a) The first half-year shall begin on June 1st;
(b) The second half-year shall begin on December 1st. (Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.130 Records required -- Maintenance -- Inspection.

(a) Every outcall promoter and outcall entertainer shall keep accurate and detailed records of all entertainment visits in a ledger which states in consecutive order:
(1) The date of the visit;

(2) The name of the hotel or motel, address, of each visit, and the promoter's name if patron was referred by promoter;
(3) The name, aliases and work permit number of the entertainer;
(4) The total sum of money or other consideration paid by the patron to either the entertainer and/or the promoter for the entertainment visit or note of cancellation and reason; and
(i) The amount of said sum kept by or given to the entertainer,
(ii) The amount of said sum kept by or given to the promoter;
(5) Whether the entertainer received monetary consideration in addition to the fee charged by the promoter and if so, how much.
(b) All records required to be maintained by subsections (a) and (b) of this section must be made available to the department of business license and the metropolitan police department for the purpose of audit and investigation. The promoter's records may be examined at the licensed place of business, the entertainer must produce the records upon forty-eight-hour notice to the address stated in the notice. The forty-eight-hour notice shall be in writing, mailed or delivered to the address stated in the license application.
(c) All records required to be maintained by subsections (a) and (b) above must be kept for not less than three years from the date of the entertainment visit. (Ord. 1421 § 11, 1992: Ord. 1340 § 12, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.140 Outcall regulations.

(a) No person or business entity shall advertise, or cause to be advertised, an outcall entertainment business without a valid outcall promoter's license issued pursuant to this chapter.
(b) No outcall entertainment promoter licensee shall contract with, employ or refer a person as an entertainer unless such entertainer holds a work identification card pursuant to this chapter.
(c) No entertainer shall provide entertainment which contributes to the delinquency of a minor if the patron is under the age of eighteen years.
(d) No entertainer shall commit an act of prostitution.
(e) No entertainer shall solicit any fee, pay, tip or gratuity from any patron in addition to the licensee's basic fee.
(f) No outcall promoter licensee shall maintain business or refer entertainers to patrons unless one or more managers are overseeing the operation of the business at all times the business is open to ensure compliance with all regulations.
(g) No outcall promoter, entertainer, manager or employee thereof shall advertise through any publication, dissemination or display whether by hire, contract or otherwise directly or indirectly in any newspaper, magazine or other publication, by any radio, television, telephone or pictorial display, publication, handbill or other advertising media which depicts any person or object or which contains any statement which suggests to a reasonable, prudent person that prostitution or any other illegal act, service or product is offered or provided.
(h) No outcall promoter, entertainer, manager or employee thereof shall use or permit to be used any word, phrase or combination of words used in any advertisement or

conversation which implies that prostitution is provided, or which give the public a basis to believe that prostitution is provided.
(i) No outcall promoter, entertainer, manager or employee thereof shall advertise through any medium any statement that states or implies that outcall entertainers have been medically examined and are free of contagious disease. (Ord. 1340 § 13, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.150 Prostitution unlawful.

It is unlawful for any person to commit an act of prostitution. (Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.160 Revocation of license or permit.

(a) The liquor and gaming licensing board shall revoke or suspend an outcall promoter's license, an outcall entertainer's work permit and a manager's permit after:
(1) The licensee or permittee is given at least ten days' written notice of the specific charges against him or her;
(2) A hearing is held before the liquor and gaming licensing board or a hearing officer pursuant to regulations codified in Chapter 8.08 of this code and the findings of the hearing officer are submitted with recommendation only as to dismissal of complaint, or suspension or revocation of the license or permit. All other provisions of Chapter 8.08 of the Clark County Code which are applicable to escorts or escort services are applicable to entertainers, outcall promoters and managers.
(b) The outcall promoter's license shall be revoked or suspended if the licensee maintains or conducts business in any building or structure which is structurally unsafe, or does not provide adequate egress, or which constitutes a fire hazard, or which is otherwise dangerous to human life or safety, or which in relation to existing use constitutes a hazard to safety or health, or public welfare, by reasons of inadequate maintenance, dilapidation, or obsolescence.
(c) The outcall promoter's license, outcall entertainer's work permit and manager's permit shall be revoked or suspended if the licensee, his, her or its employee, agent or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for a license or permit, or in any report required to be filed with the department or record required to be kept for no less than three years or knowingly caused or suffered another to furnish such false, misleading or fraudulent information or withhold such required information on his, her or its behalf.
(d) The license of an outcall promoter shall be revoked or suspended if the licensee, manager, partner, stockholder, officer or director knew or should have known it referred an outcall entertainer for the purpose of prostitution or if it violates subsection (a), (b), (f), (g), (h) or (i) of Section 6.140.140 or Section 6.140.060.
(e) The license of an outcall promoter, permit of an outcall entertainment manager, and work permit of an outcall entertainer shall be revoked upon conviction of any crime listed in subsection (c)(4) of Section 6.140.085. If the license is held by a partnership or corporation, conviction of a partner, stockholder holding ten percent or more stock,

officer or director of any such listed crime shall also result in revocation. (Ord. 1421 § 12, 1992: Ord. 1340 § 14, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

6.140.170 Compliance by present licensees.

Inasmuch as the 1991 Session of the Nevada State Legislature enacted Assembly Bill 116, which transferred license jurisdiction from the board of county commissioners to the county license board, and the county license board has, through regulation, adopted the ordinance codified in this chapter as its licensing regulation of this business, any person, firm or corporation which was licensed pursuant to this chapter as of June 18, 1992 and which held any business license from the county which lawfully permits the activities regulated hereby or was doing business on September 10, 1992, shall have 60 days from passage of this amendment (September 1, 1992) to submit the application required in this chapter for the next required semiannual license or be deemed as operating as an outcall promoter without a license. Additionally, employees of businesses designated by this section who are required to obtain work permit shall have sixty days from passage of this amendment to submit application for permit or be deemed as operating without a permit. (Ord. 1421 § 13, 1992: Ord. 1340 § 15, 1991: Ord. 1069 § 1 (part), 1988: Ord. 1056 § 1 (part), 1987)

NOTE

Clark County's Unified Development Code, or zoning ordinance, defines Outcall businesses as follows:

> "'Outcall entertainment referral service' means a person who, for a fee, sends or refers an entertainer to a location other than a property at which the business license has been issued."

To date, Clark County's Outcall Performers and Entertainers ordinance, Title 6 Business Licenses, Chapter 6.140.020(c), has not been amended. The definition reads as follows:

> "'Outcall' or 'entertainment by referral' services means a person or group of persons who send or refer another person to a hotel or motel guest room for a fee in response to a telephone call or other request for the purpose of entertaining the person located in the hotel or motel guest room." (See Appendix IV)

Appendix V

CLARK COUNTY, NEVADA
COUNTY CODE

Title 12 PUBLIC PEACE, SAFETY AND MORALS*

Chapter 12.08 PROSTITUTION

12.08.090 Penalties.

(a) Any person, partnership, firm, association or corporation violating any of the provisions of this chapter is guilty of a misdemeanor and shall be fined any sum not exceeding one thousand dollars or shall be imprisoned in the county jail for a period of time not exceeding six months, or shall be punished by both such fine and imprisonment.
(b) Upon the recommendation of the district attorney's office, all or part of a sentence for a violation of this chapter or any other state statute or county ordinance regulating prostitution may be suspended if the defendant agrees or the justice court otherwise orders the defendant to stay out of the order out corridor for a period which shall not be less than six months or more than one year. Such suspended sentence may also be conditioned upon such other conditions as the court deems reasonable for the rehabilitation of the defendant and the preservation of the health, safety and welfare of the public. Prior to ordering the defendant to stay out of the order out corridor as a condition of a suspended sentence, the court shall inquire of the defendant as to the defendant's special reasons for requiring access to any specified areas within the order out corridor, including:
(1) Working or residing within the order out corridor, excluding working as an outcall entertainer subject to the provisions of Clark County Code Chapter 6.140; an entertainer for an entertainment referral service subject to the provisions of Clark County Code Chapter 8.50; a dancer or other employee of an erotic dance establishment subject to the provisions of Clark County Code Chapter 6.160; an attendant, server or other employee of an adult nightclub subject to the provisions of Clark County Code Chapter 6.170; an escort subject to the provisions of Clark County Code Chapter 8.32; or in employment of a similar nature by or for any business or establishment which meets the definition of a sexually oriented commercial enterprise set forth in Clark County Code Section 7.54.030;
(2) The need for medical services within the order out corridor;
(3) The need for access to federal, state and local social services within the order out corridor;
(4) The need for religious services within the order out corridor;
(5) The need for public transportation within the order out corridor; and
(6) The need for legal services or appearances within the order out corridor.
After such inquiry, the court may grant such exemptions from an order to stay out of the order out corridor as the court deems reasonable. Any order issued pursuant to this section shall specifically describe the perimeters of the order out corridor and any exempted areas therein and shall be accompanied by a copy of a map depicting the perimeters of the order out corridor. Upon written motion, with prior notice to the district attorney's office, the court shall consider modification of the scope of exemptions listed in its order to stay out of the order out corridor within ten calendar days from the filing of such motion. (Ord. 2009 § 3, 1997: Ord. 1070 § 5, 1987: Ord. 493 § 1 (part), 1976)

Appendix VI

CLARK COUNTY, NEVADA
COUNTY CODE

Title 6 BUSINESS LICENSES*

Chapter 6.34 DATING SERVICE

6.34.010 Dating service.

Any person engaged in the business of operating a dating service shall obtain from the director of business license a business license and shall pay a license fee based upon the gross revenue as set out in Section 6.12.835.

A "dating service" is defined as a business which, for a fee registers and matches persons desiring to date each other, neither of which person is an employee, subcontractor, or agent of the dating service. A date is a social engagement between two natural persons for which neither person receives monetary consideration. The term "person" as applied to the operation or licensure of a dating service includes any association, corporation, firm, partnership, trust or other form of business association as well as a natural person. A customer of a dating service must register at the office of the dating service and pay for the registration in advance of any date.

A dating service license may be revoked for:

(1) Any ground stated in Sections 6.04.090 or 6.04.100; or

(2) Any failure to keep the records as required in Section 6.08.090 to establish gross revenue; or

(3) Any failure to keep records of all persons registering for date; or

(4) Operating an escort service.

Any person who:

(1) Provides dates by telephone calls without preregistration at the office; or

(2) Provides dates without prepayment; or

(3) Collects the registration fee through an agent calling at the customer's room, place of dwelling or any place other than the licensed place of business; or

(4) Pays a fee, commission or any form of compensation or consideration to any person dating another; or

(5) Receives any percentage of the fee or a kickback from either customer before, during or after a date; or

(6) Charges either customer to the same date a different fee; or

(7) Charges either customer a fee in addition to a registration fee; or

(8) Operates in any manner described in Section 8.32.060 of the Clark County Code;

is deemed to be operating as an escort service.

A person who has had an escort bureau license denied or revoked, or who has had a dating service license revoked shall not be granted a dating service license. (Ord. 956 § 1, 1985)

Appendix VII

Title 6 BUSINESS TAXES, LICENSES AND REGULATIONS

Chapter 6.36 ESCORT BUREAUS AND PERSONNEL
Article I. General Provisions

6.36.010 Privileged business finding — Chapter 6.06 compliance.

The City Council finds that the business of providing escorts seriously affects the economic, social and moral well being of the City and its residents, that such business must be regulated strictly for the welfare of the public, and that such businesses must therefore comply with Chapter 6.06.
(Ord. 2262 § 2 (part), 1982: prior code § 5-23-1)

6.36.020 Definitions.

Unless the context otherwise requires the following words shall have the meaning ascribed to them:
(A) "Escort" means any person who, for a salary, fee, commission, hire, or profit, makes himself or herself available to the public for the purpose of accompanying other persons for social engagements.
(B) "Escort bureau" means any business, agency or person who, for a fee, commission, hire, or profit, furnishes or arranges for escorts to accompany other persons for social engagements.
(C) "Escort patron" means any person who seeks the services of an escort bureau.
(D) "Escort runner" means any person who, for a salary, fee, hire, or profit, and who is not a licensed owner of an escort bureau or is not an escort acts for an escort or escort bureau by contacting or meeting with escort patrons to make social engagements for escorts.
(Ord. 2262 § 2 (part), 1982: prior code § 5-23-2)

Article II. Bureau Licenses

6.36.030 Required.

No person shall engage in the business of providing escorts or conduct an escort bureau without first obtaining and thereafter maintaining a valid unexpired license pursuant to this Chapter and this Code. (Ord. 2262 § 2(part), 1982: prior code § 5-23-3)

6.36.040 Fee.

Each escort bureau must pay in advance a semiannual license fee of one thousand dollars or one percent of the total amount of its gross sales, whichever is greater. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-16 (A))

6.36.050 Denial or discipline grounds.

In addition to the grounds provided in Section 6.02.330 et seq. an escort bureau license may be denied or the licensee disciplined if:
(A) The applicant, licensee or any principal thereof has committed a crime of prostitution or any other crime of sexual misconduct.
(B) An escort or escort runner employed by the escort bureau has committed a criminal act while providing services to an escort patron under circumstances where the bureau has knowledge or should have had knowledge by reasonable diligence that such criminal act might occur.
(Ord. 2262 § 2 (part), 1982: prior code § 5-23-4)

6.36.055 Business location.

No license for an escort bureau may be issued unless the business has a fixed location:
(A) From which the business will actually be conducted; and
(B) Which is properly zoned to allow the use.
(Ord. 5308 §§ 1, 2, 2001)

6.36.060 Contract with patrons.

(A) The escort bureau shall provide to each patron a written contract for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed; the total amount of money such services shall cost the patron and any special terms or conditions relating to the services to be performed. The contract shall additionally include a statement in clear and concise language that prostitution is illegal in the City and is punishable by both fine and imprisonment and that no act of prostitution shall be performed in relation to the services contracted for. Further, the contracts provided for in this Subsection shall be numbered and utilized in numerical sequence by the escort bureau.
(B) The contract shall be signed by the patron and a copy furnished to him. The escort bureau shall also retain a copy of each contract and shall furnish said copies to the Department of Business Activity for their inspection upon the Department's furnishing written request therefor.
(Ord. 2262 § 2 (part), 1982: prior code § 5-23-13 (B, C))

6.36.070 Employee permits and cards.

It is unlawful for any escort bureau to employ an escort or an escort runner who does not have in his possession a valid unexpired identification card and permit as required by this Chapter. (Ord.2262 § 2 (part), 1982: prior code § 5-23-12)

6.36.080 Referral of employees--Notice of termination.

Every escort bureau shall refer all prospective escorts and escort runners to the Department of Business Activity for application for a permit. Upon termination of

employment of any escort or escort runner with such escort bureau, such escort bureau shall notify the Department, in writing, of such termination within five days thereof. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-13 (A))

6.36.090 Employment records.

Every escort bureau licensed hereunder shall maintain the following records of employment of their employee escorts and runners:
(A) Date employment commenced; and
(B) Date employment terminated.
The foregoing records shall be available to the City upon written request therefor. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-14)

6.36.100 Age of employees.

No escort bureau shall employ a person as an escort or escort runner who is under the age of eighteen. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-15)

Article III. Escort and Runner Permits and Identification

6.36.110 Required.

It is unlawful for any person to act as an escort or an escort runner without first obtaining and carrying in his or her possession a valid unexpired permit and a valid unexpired identification card as herein provided. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-5)

6.36.120 Permit--Application.

Any person who is required to have a permit must apply for the permit from the Director of Business Activity and pay an investigation fee of one hundred seventy-five dollars. The application must be made upon forms provided by the Department and shall set forth the information required which includes:
(A) The applicant's personal description, history, education, experience and background;
(B) The applicant's criminal history and civil and administrative litigation history;
(C) The applicant's relationship to the licensee;
(D) In the case of an escort, the applicant shall furnish written evidence from a licensed physician that the physician has examined the applicant and that the applicant is free from any communicable disease;
(E) A recent three-by-five-inch photograph showing the applicant's head and shoulders;
(F) Such other information as the Director may require that reasonably relates to the applicant's fitness for a permit or the nature of the service to be provided. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-6)

6.36.130 Permit--Approval, denial, revocation, suspension.

The Director of Business Activity shall refer the application for a permit to the Metropolitan Police Department for an investigation. Upon completion of the investigation the Director shall approve, deny or take such other action with respect to such application as he considers appropriate. The Director may deny, revoke or suspend a permit for good cause which includes but is not limited to:
(A) The application is incomplete or contains false, misleading or fraudulent statements with respect to any information required;
(B) The applicant or permittee fails to satisfy any qualification or requirement imposed by this Code, or other local, State or Federal law or regulation pertaining to such activities;
(C) Disciplinary action has been brought against the licensee or a principal of the licensee;
(D) The applicant or permittee fails to comply with any conditions of the license or permit;
(E) The applicant or permittee is or has engaged in a business, trade or profession without a valid license, permit, approval for suitability or work card when he knew that one was required or under such circumstances that he reasonably should have known one was required;
(F) The applicant or permittee has been subject, in any jurisdiction, to disciplinary action of any kind against a license, permit, approval for suitability or work card to the extent that such disciplinary action reflects on the qualification, acceptability or fitness to hold a permit.
(G) The applicant or permittee has committed acts which would constitute a crime involving moral turpitude, prostitution or other sex crimes, or involving any Federal, State or local law or regulation relating to the same or a similar business;
(H) When substantial information exists which tends to show that the applicant or permittee is dishonest or corrupt;
(I) The applicant or permittee has engaged in deceptive practices upon the public;
(J) The applicant or permittee suffers from a legal disability under the laws of the State.
(Ord. 2262 § 2 (part), 1982: prior code § 5-23-7)

6.36.140 Permit--Fee.

Each escort and each escort runner must pay in advance a semiannual permit fee of one hundred fifty dollars. Failure to pay such fee within fifteen days of its due date shall cause the permit to automatically expire. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-16 (B))

6.36.150 Permit--Content.

The permit shall identify the permittee and the licensee and set forth the date of issuance. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-8)

6.36.160 Permit--Renewal.

Each escort prior to renewal of his permit by the payment of the semiannual permit fee shall furnish written evidence from a licensed physician that the physician has recently examined the permittee and that the permittee is free from any communicable diseases. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-10 (B))

6.36.170 Permit--Limitation to named bureau.

Every escort and escort runner's permit shall be issued to the applicant for one escort bureau only; it is unlawful for an escort or escort runner to undertake employment with any escort bureau other than the escort bureau identified on his permit. (Ord.2262 § 2 (part), 1982: prior code § 5-23-11 (A))

6.36.180 Permit--Transfer.

Upon application and payment of a transfer fee in the amount of fifty dollars, an escort's or escort runner's permit may be transferred to a new escort bureau employer. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-11 (B))

6.36.190 Permit--Surrender.

Upon termination of employment as an escort or escort runner for a licensed escort bureau employer, such permittee shall surrender his permit to the Department of Business Activity within five days of such termination of employment; it is unlawful for any escort or escort runner to fail to surrender his permit within the time prescribed. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-11 (C))

6.36.200 Permit--Loss reporting.

In the event an escort or escort runner shall lose his permit it shall be the duty of the escort or escort runner to report said loss to the Director of Business Activity within five days after knowledge of the loss occurs. A fee of twenty-five dollars shall be charged by the Department to issue a new permit. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-11 (D))

6.36.210 Identification card.

Any individual who is required to have an identification card shall make application for the card with the Metropolitan Police Department and provide the information requested including fingerprints and photographs. Such card when issued shall be valid for one year, except that a temporary card may be issued for thirty days pending the final issuance of the identification card. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-9)

6.36.220 Exhibition on request.

Each person required to have a permit or an identification card must exhibit his permit and identification card upon the request of any person. (Ord. 2262 § 2 (part), 1982: prior code § 5-23-10 (A))

Appendix VIII

LAS VEGAS, NEVADA
CITY CODE

Title 6 BUSINESS TAXES, LICENSES AND REGULATIONS

Chapter 6.57 OUTCALL ENTERTAINMENT REFERRAL SERVICE BUSINESSES

6.57.010 Intent of chapter.

The City Council declares that this chapter is intended to:
(A) Regulate outcall entertainment referral service businesses by curtailing prostitution under the guise of entertainment without de facto prohibiting or curtailing protected expression; and
(B) Represent a balance between the legitimate ends of the community by:
(1) Imposing an incidental, content-neutral time, place and manner regulation on outcall entertainment referral businesses without limiting alternative avenues of communication; and
(2) Requiring outcall entertainment referral service businesses to carry their fair financial share of law enforcement activities related to outcall entertainment.
(Ord. 3632 §§ 1 (part), 2, 1992)

6.57.020 Findings--General compliance.

The City Council finds that outcall entertainment referral service businesses seriously affect the economic, social and moral well-being of the City and its residents; that such businesses must be strictly regulated for the welfare of the public; and that such businesses must therefore comply with Chapter 6.06 of this Code.
(Ord. 3632 §§ 1 (part), 3, 1992)

6.57.030 Definitions.

As used in this Chapter, unless the context otherwise requires, the following words shall have the meaning ascribed to them as follows:
(A) "Entertainment location" means a hotel or motel guest room, or the guest room of any other public lodging accommodation including recreational vehicle parking facilities.
(B) "Manager" means the person who administers, oversees or supervises the day-to-day operation of an outcall entertainment referral service and who acts as the licensee's agent.

(C) "Outcall entertainer" means a natural person who is employed by and who is sent or referred to an entertainment location by an outcall entertainment referral service to entertain a patron at the entertainment location.
(D) "Outcall entertainment" means a visit by an outcall entertainer at an entertainment location in response to a telephone or other request to entertain a patron at the entertainment location.
(E) "Outcall entertainment referral service" means a business which for a fee sends or refers an entertainer to an entertainment location in response to a telephone or other request to entertain a patron at the entertainment location.
(F) "Patron" means a person who requests an entertainer to entertain at an entertainment location and who either pays or agrees to pay the fee of the outcall entertainment referral service. "Patron" includes a person who is entertained by an outcall entertainer at an entertainment location.
(G) "Police department" means the Las Vegas Metropolitan Police Department.
(Ord. 3632 §§ 1 (part), 4, 1992)

6.57.040 License--Required.

No person shall engage in the business of outcall entertainment referral service without first obtaining and thereafter maintaining a valid unexpired license pursuant to this Chapter and this Code.
(Ord. 3632 §§ 1 (part), 6, 1992)

6.57.050 License--Application--Investigation.

(A) Application.
(1) Any person who is required by the provisions of this Chapter to obtain a license must apply for such license at the Department and pay an investigation fee pursuant to the provisions of Chapter 6.06 of this Code.
(2) The application must be made upon forms provided by the Department and set forth the information required.
(3) A post office box address is unacceptable as a street address on an application where a street address is required; provided, however, an applicant may identify and designate on his application a post office box address as the address to which he prefers correspondence to be mailed.
(B) Investigation. The Department shall refer the application for a license to the police department for an investigation. Upon completion of the investigation, the City Council shall approve, deny or take such other action with respect to the application as it considers appropriate. The City Council may deny a license for good cause which shall include without limitation the grounds provided in LVMC 6.02.090(A).
(Ord. 3632 §§ 1 (part), 7, 8, 1992)

6.57.060 License--Fee.

Each outcall entertainment referral service must pay in advance a semiannual license fee of one thousand dollars or one percent of the total amount of its gross revenues, whichever is greater.
(Ord. 3632 §§ 1 (part), 11, 1992)

6.57.065 License--Business location.

No license for an outcall entertainment referral service may be issued unless the business has a fixed location:
(A) From which the business will actually be conducted; and
(B) Which is properly zoned to allow the use.
(Ord. 5309 §§ 1, 2, 2001)

6.57.070 Licensee--Discipline.

In addition to the grounds provided in LVMC 6.02.330, an outcall entertainment referral service licensee may be disciplined if an outcall entertainer who is employed by or referred to a patron by the referral service has committed a criminal act while providing entertainment to a patron under circumstances where the referral service has knowledge or should have had knowledge by reasonable diligence that such a criminal act might occur.
(Ord. 3632 §§ 1 (part), 9, 1992)

6.57.080 Licensee--Hiring restrictions.

It is unlawful for any outcall entertainment referral service to employ or refer to a patron an outcall entertainer who:
(A) Is less than eighteen years of age;
(B) Does not have in his possession a valid unexpired work card as required by this Chapter.
(Ord. 3632 §§ 1 (part), 10, 1992)

6.57.090 Licensee--Work cards--Application.

(A) No person may be employed as an outcall entertainer without first obtaining and thereafter maintaining a valid unexpired work card.
(B) Any person who is required by the provisions of this Chapter to obtain a work card must apply for such work card pursuant to the provisions of Chapter 6.86 of this Code.
(Ord. 3632 §§ 1 (part), 12, 13, 1992)

6.57.100 Licensee--Work cards--Employee discipline.

In addition to the grounds provided in LVMC 6.86.110, an outcall entertainment work card may be denied or an entertainer disciplined if the applicant or entertainer:
(A) Has been convicted of a crime of prostitution or any other crime of sexual misconduct;

(B) Has committed a criminal act while providing services to a patron; or
(C) Is less than eighteen years of age.
(Ord. 3632 §§ 1 (part), 14, 1992)

6.57.110 Employees--Hiring restrictions.

No entertainer shall:
(A) Provide to a patron entertainment which may contribute to the delinquency of a minor if the patron is less than eighteen years of age;
(B) Commit an act of prostitution; or
(C) Solicit any fee, gratuity or tip from any patron in addition to the basic entertainment fee.
(Ord. 3632 §§ 1 (part), 16, 1992)

6.57.120 Employees--Record keeping.

(A) Every outcall entertainment referral service and every outcall entertainer shall maintain in a ledger accurate and detailed records of all entertainment referrals and visits to entertainment locations.
(B) The records shall include:
(1) The date of the referral and visit;
(2) The name, if any, address and room number, if applicable, of the entertainment location where the visit was made;
(3) The type of entertainment performed;
(4) The name of the patron who was entertained; provided, however, that if there was more than one patron entertained, only the name of the patron who paid the fee to the outcall entertainer need be recorded in the ledger;
(5) The amount of money the entertainment cost the patron; and
(6) Any special terms or conditions relating to the services performed.
(C) Each outcall entertainment referral service shall upon request by the director make its ledger available to the Department for inspection.
(D) Each outcall entertainer shall upon request by the Director make his ledger available to the Department for inspection.
(Ord. 3632 §§ 1 (part), 17, 1992)

6.57.130 Managers--Hiring restrictions.

No person shall engage in the business of outcall entertainment referral service as a manager without first being approved for suitability pursuant to this Chapter and this Code.
(Ord. 3632 §§ 1 (part), 18, 1992)

6.57.140 Managers--Application--Investigation.

(A) Application.

(1) Any person who is required by the provisions of this Chapter to be investigated as a manager shall file an application with the Department and pay an investigation fee pursuant to Chapter 6.06 of this Code.
(2) The application must be made upon forms provided by the Department and shall include the information required.
(3) A post office box is unacceptable as a street address where a street address is required; provided, however, an applicant may identify and designate on his application a post office box address as the address to which he prefers correspondence to be mailed.
(B) Investigation. The Department shall refer the application to the Police Department for an investigation. Upon completion of the investigation, the City Council shall approve, deny or take such other action with respect to the application as it considers appropriate. The Council may deny approval for suitability for good cause which shall include without limitation the grounds provided in LVMC 6.02.090(A).
(Ord. 3632 §§ 1 (part), 19, 20, 1992)

6.57.150 Managers--Presence on premises required.

Other than the sole proprietor of an outcall entertainment referral service who acts as his own manager, no licensee shall maintain a referral service or refer entertainers to entertainment locations unless at least one manager remains on the premises and oversees the operation of the referral service at all times during which the operation is open.
(Ord. 3632 §§ 1 (part), 21, 1992)

6.57.160 Managers--Termination.

Upon termination of employment of a manager with an outcall entertainment referral service, the referral service shall notify the Department in writing of such termination within ten days thereof.
(Ord. 3632 §§ 1 (part), 22, 1992)

6.57.170 Managers--Record keeping.

Every outcall entertainment referral service shall maintain records of the dates on which a manager's employment commenced and on which his employment terminated.
(Ord. 3632 §§ 1 (part), 23, 1992)

6.57.180 Advertising.

(A) No person shall advertise or cause to be advertised an outcall entertainment referral service without first obtaining and thereafter maintaining a valid unexpired license pursuant to this Chapter and this Code
(B) No licensee, manager or employee of an outcall entertainment referral service and no entertainer shall, in any manner, either directly or indirectly:
(1) Advertise, display or disseminate:
(a) In any newspaper, magazine or other publication, or
(b) By radio or television broadcasting, or

(c) By telephone, or
(d) By handbill, pictorial representation or other advertising
any information or illustrations or pictures of any person or object that contain any statement which implies or suggests to a reasonable, prudent person or would give the public a basis to infer or believe that prostitution or any other illegal act, product or service is offered or provided by the referral service or the entertainer;
(2) Advertise in any manner set forth in paragraph (1) of this subsection any statement which implies or suggests to a reasonable, prudent person or would give to the public a basis to infer or believe that outcall entertainers have been medically examined and are free from contagious diseases.
(Ord. 3632 §§ 1 (part), 24, 25, 1992)

6.57.190 Violation--Penalty.

Whenever in this Chapter any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this Chapter the doing of any act is required or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars or by imprisonment for a term of not more than six months, or by any combination of such fine and imprisonment. Any day of any violation of this Chapter shall constitute a separate offense.
(Ord. 3632 §§ 1 (part), 27, 1992)

Appendix IX

LAS VEGAS, NEVADA
CITY CODE

Chapter 6.06 PRIVILEGED BUSINESSES – SPECIAL REQUIREMENTS

6.06.010 Applicability.

The provisions of this chapter apply to those businesses which are found by the City Council to require a high degree of supervision and to more seriously affect the economic, social and moral well-being of the City and its residents. These businesses have been commonly referred to as "privileged" and require City Council approval for a license.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-1 (A))

6.06.020 Conformance with other business-license provisions.

Businesses governed by this chapter must also comply with Chapter 6.02 unless particular provisions of Chapter 6.02 are superseded by the provisions herein.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-1 (B))

6.06.030 License application--Content.

(A) The application for a license must provide:
(1) The applicant's prior business activities, financial history and business associations covering at least the ten-year period immediately preceding the year of filing the application;
(2) The name, address and job description of each person who is to be actively engaged in the administration or supervision of the business to be licensed.
(B) The applicant shall agree in writing that, if a license is granted, the applicant will accept the license subject to all of the terms and provisions of this title and that the license is a privilege conferred upon the person who is granted the license.
(C) The applicant shall authorize the City in writing to obtain information from criminal justice agencies, financial institutions, Federal, State and local governments and agencies, and other persons and entities and shall consent in writing to the release of such information to the City for use in connection with the application for the license and other City business regulations. The applicant shall also sign a release of claims and hold-harmless agreement to the City for its use of the information provided by the applicant or discovered during any investigation thereof.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-2 (A, B))

6.06.040 License application--Confidentiality.

Information showing the applicant's finances, net worth, earnings or revenues which is submitted as a part of the application for a license shall be treated as confidential except as follows:
(A) In the ordinary course of the administration of this Chapter;
(B) Pursuant to a subpoena or other order of a court of competent jurisdiction;
(C) Release to a duly authorized agent of any governmental agency acting pursuant to the agency's authority and function.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-2 (C))

6.06.050 License application--Preliminary approval.

(A) The City Council may grant preliminary approval of an application for a license when such approval is requested by an applicant for any good and sufficient reason.
(B) The City Council may impose requirements or conditions on any such preliminary approval, including temporary licensing, and the Department shall issue the license only after all requirements are satisfied.
(C) All such requirements must be satisfied and the license issued within six months after the date of the preliminary approval unless the City Council specifies a shorter or longer period in its preliminary approval.
(Ord. 5517 § 2, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-10)

6.06.051 Temporary license--Purpose.

(A) The City Council may grant a temporary license pending its decision regarding a license application in order to determine:
(1) The applicant's fitness for a license; and
(2) The appropriateness of the applicant's business location.
(B) A temporary license shall not be granted under this Section unless:
(1) All principals required to be approved for suitability have submitted a complete investigation packet for determination of suitability and paid all applicable fees;
(2) The Director makes a preliminary finding that all of the principals of the business are suitable; and
(3) The applicant has submitted a completed and accurate license application and has paid all required application fees.
(Ord. 5517 § 3, 2002)

6.06.052 Temporary license--Extension.

(A) A temporary license may be issued initially by the City Council for a period not to exceed six months.
(B) The City Council may grant one extension of a temporary license for a period not to exceed six months.
(C) When granting a temporary license or extension thereof, the City Council may impose any special conditions and restrictions it deems appropriate.
(Ord. 5517 § 4, 2002)

6.06.053 Temporary license--Compliance.

During a temporary licensing period the applicant shall comply with any requirement imposed by this Code, or other local, State or Federal law or regulation and any special conditions and restrictions imposed by the City Council.
(Ord. 5517 § 5, 2002)

6.06.054 Temporary license--Suspension.

(A) The Director shall summarily suspend an applicant's temporary license if any of the reasons stated at LVMC 6.02.330 through 6.02.350 as good cause for disciplining a licensee apply to an applicant or any of its principals.
(B) The Director may summarily suspend an applicant's temporary license if the applicant or any of its principals is in violation of any requirement of this Code, or other local, State or Federal laws or regulations not covered by the provisions of LVMC 6.02.330 through 6.02.350.
(Ord. 5517 § 6, 2002)

6.06.055 Temporary license--City Council review.

(A) As soon as the open meeting notice requirements of NRS 241.034 will permit, the Director shall seek City Council review of his or her decision suspending a temporary license.

(B) The hearing shall be conducted in accordance with the provisions of LVMC 6.88.090.
(C) Following the hearing, the City Council shall revoke or reinstate such temporary license subject to any additional conditions and restrictions the City Council deems appropriate.
(Ord. 5517 § 7, 2002)

6.06.056 Temporary license--Denial.

The City Council's revocation of an applicant's temporary license for cause shall also be deemed a denial of the applicant's privileged license application.
(Ord. 5517 § 8, 2002)

6.06.060 Suitability approval--Required of each principal.

Each principal must be approved for suitability in order to be associated with a business subject to this Chapter.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-3 (A))

6.06.070 Suitability approval--Application contents.

(A) The application for approval for suitability shall be filed with the Department on forms acceptable to or provided by the Department. The applicant shall furnish all the information required by the Department, including but not limited to:
(1) The applicant's personal and family history;
(2) The applicant's present and past financial position and history;
(3) The applicant's criminal history and civil and administrative litigation history;
(4) The applicant's education, training, employment, business and professional history; and
(5) The applicant's past and proposed affiliation with the licensee.
(B) The Department is authorized to require disclosure of any information that reasonably relates to the applicant's qualification, acceptability or fitness for an approval for suitability.
(Ord. 5517 § 9, 2002: Ord. 2187 § (part), 1981: prior code § 5-4-3 (B))

6.06.080 Suitability approval--Application completion--Identification and release requirements.

(A) The application must be signed and verified by the applicant under oath.
(B) The applicant shall submit to fingerprinting and photographing, shall authorize the City in writing to obtain information from the past and present employers, criminal justice agencies, financial institutions, Federal, State and local governments and agencies, and other persons and entities, and shall consent in writing to the release of such information to the City for use in connection with the application for approval for suitability and other City business regulations. The applicant shall also sign a release of claims and a hold harmless agreement to the city for its use of the information provided by the applicant or discovered during any investigation thereof.

(Ord. 2187 § 1 (part), 1981: prior code § 5-4-3 (C))

6.06.090 Suitability approval--Application confidentiality.

Information showing the applicant's finances, net worth, or revenues which is submitted as a part of the application for an approval for suitability shall be treated as confidential except as follows:
(A) In the ordinary course of the administration of this Chapter;
(B) Pursuant to subpoena or other order of a court of competent jurisdiction; or
(C) In the course of release to a duly authorized agent of any governmental agency acting pursuant to the agency's authority and function.
(Ord. 5517 § 10, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-3 (D))

6.06.100 Fee deposits.

Each applicant shall pay to the Metro, at the time of filing an application for a license, or an approval for suitability, the following nonrefundable investigation fee deposits:
(A) For a license $200.00.
(B) For an approval for suitability $150.00.
(Ord. 5517 § 11, 2002: Ord. 3291 § 1, 1987: Ord. 3148 § 1, 1984: Ord. 2187 § 1 (part), 1981: prior code § 5-4-11)

6.06.105 Investigation--Applicant's responsibility for costs--Recordkeeping.

(A) Every applicant shall pay the entire cost incurred by the Metro to complete the investigations required by this Chapter, whether the application is approved or denied. Such costs are a collectible debt due to the Metro and must be paid in full before licensing or approval for suitability.
(B) The Metro or any other investigative unit performing investigations under this Chapter shall maintain an accounting of all investigative activity for which the applicant will be billed, including the date, the actual hours expended, description of activity, and the name of the investigator(s) performing same. Such investigative records shall be compiled as the activities are performed and shall be promptly made available to the applicant or the City Council, upon written request.
(Ord. 5517 § 12, 2002: Ord. 3291 § 2, 1987: Ord. 3148 § 2, 1984)

6.06.110 Investigation—Submission to Council.

After receipt of the completed application for a license or approval of suitability, the Director may refer the application to the Metro for further investigation. Upon completion of the investigation, the Director shall submit the application to the City Council for its actions.
(Ord. 5517 § 13, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-5 (A))

6.06.120 Council action on applications--Grounds for denial.

(A) The City Council may approve, deny or take such other action with respect to such application as it considers appropriate. The burden of showing qualifications, acceptability or fitness for a license or approval for suitability is upon the applicant.
(B) Grounds for denial of a license include, but are not limited to, the grounds set forth in LVMC 6.02.090 and the grounds for disciplinary action against a licensee set forth in LVMC 6.02.330 et seq.
(C) Grounds for denial of an approval for suitability include, but are not limited to, the grounds for disciplinary actions against a principal approved for suitability as set forth in LVMC 6.06.250 and 6.06.260.
(Ord. 5517 § 14, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-5 (B))

6.06.125 Application for approval of suitability.

(A) Once initial approval for suitability has been made by the City Council, subsequent applications for approval for suitability may be referred by the Director to Metro for investigation.
(B) Upon completion of Metro's investigation, the Director may take such action as deemed appropriate, including approval, conditional approval or denial of the application for approval for suitability.
(C) An applicant may appeal the decision of the Director in accordance with the provisions of LVMC 6.02.110.
(Ord. 5517 § 15, 2002)

6.06.130 Waiver of suitability approval--Permitted when.

Notwithstanding LVMC 6.06.050, the Director in his discretion may waive a principal from the requirement of an approval for suitability if in his opinion the principal is so far removed from the operation of the business that he will not likely exercise significant influence over the business. Any principal who has been so waived may later be required at the discretion of the Director to apply and be found suitable in order to continue his association with the business.
(Ord. 5517 § 16, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-4 (A))

6.06.140 Waiver of suitability approval--Effect.

The grant of a waiver confers no privilege on the person to whom it is granted to do any act permitted by this Chapter to be done only by a licensee or a person approved for suitability, but, rather, the waiver represents only an exemption by the City to the person to whom the waiver is granted from the requirement of applying for approval for suitability.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-4(B))

6.06.150 Waiver of suitability approval--Requirements.

The Director, in considering whether to waive a principal, may require:
(A) Personal identification information;

(B) A written request from a managing officer or partner of the business setting forth sufficient information as to the principal's responsibilities and authority with the licensee or proposed licensee; and
(C) A fifty dollar non-refundable waiver fee, payable in advance, for each principal requesting a waiver.
(Ord. 5517 § 17, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-4 (C))

6.06.160 Application after adverse action.

Any person whose license or approval for suitability has been denied, cancelled or revoked may not apply for a license or approval for suitability until one year following the effective date of such action.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-9(A))

6.06.170 Job approval requirement is personal requirement.

A person may not act in a capacity where an approval for suitability is required unless he or she has been approved for suitability.
(Ord. 5517 § 18, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-9 (B))

6.06.180 Approval limited.

A person who has been approved for suitability under a license in connection with a particular job position may exercise only those functions reasonably associated with the particular job position for which he was approved.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-9 (C))

6.06.190 Licensee responsibility for required approvals.

A licensee may not employ, allow, permit or suffer to permit a person to exercise any office, authority, control or privilege or perform any act, for the exercise or performance of which a person is required to be approved for suitability, unless such person has been so approved for suitability.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-9(D))

6.06.195 Paying tips to taxicab drivers for delivering passengers to licensee's business location unlawful.

(A) It shall be unlawful for any licensee subject to this Chapter or any employee or agent of said licensee to pay any fee, tip, gift, or gratuity of any kind to any taxicab driver for the delivery of any passenger to the business location of the licensee. This Section does not apply to promotional packages or arrangements whereby a licensee pays a tip or gratuity directly to a taxicab company in advance as part of the promotional package or arrangement.
(B) Any person who is convicted of violating subsection (A) of this Section shall be punished by a fine of not less than two hundred fifty dollars nor more than one thousand

dollars or by imprisonment for a term of not more than six months, or by any combination of such fine and imprisonment.
(Ord. 3179 § 1, 1985)

6.06.200 Changes--Duty to report.

The applicant has a continuing duty and obligation to notify the Department of additions, deletions, changes or modifications in the information furnished the Department and this duty continues as long as a valid approval for suitability remains in effect.
(Ord. 5517 § 19, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-3 (E))

6.06.210 Changes--Approval required when.

Prior approval must be obtained from the City Council for a licensee or a holder of approval for suitability to do any of the following acts:
(A) Convey the license from one person to another;
(B) Change the location of a license from one premises to another premises;
(C) Change the name of the business operating under a license; or
(D) Transfer any ownership interest or voting control to a person who, because of the transfer, would be required to be approved for suitability.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-7(A))

6.06.220 Changes--Denial of approval.

The City Council may deny approval of any act for which approval is required by this Chapter for good cause, which includes those causes set forth in LVMC 6.02.090 and 6.02.330 through 6.02.350.
(Ord. 5517 § 20, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-7 (B))

6.06.230 Encumbrance of ownership or control.

Any person who has ownership interest in or voting control of the licensee equal to or greater than ten percent of the entire ownership or voting control of a licensee must notify the Department within ten days of subjecting such ownership interest or voting control to any security interest or other encumbrance.
(Ord. 5517 § 21, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-8 (A))

6.06.240 Transfer of ownership or control--Financial

encumbrance. Each licensee must notify the Department prior to transferring or recognizing the transfer of any ownership interest or voting control which results in a person acquiring an ownership interest or voting control equal to or greater than ten percent of the entire ownership in or voting control of the licensee or prior to subjecting any of its assets, income or revenue to any security interest or other encumbrance.
(Ord. 5517 § 22, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-8 (B))

6.06.250 Disciplinary action--Grounds.

(A) A licensee may be subject to disciplinary action as set forth in LVMC Sections 6.02.330 through 6.02.360.
(B) A principal approved for suitability may be subject to disciplinary action by the City Council for good cause, which may include, but is not limited to:
(1) The application is incomplete or contains false, misleading or fraudulent statements with respect to any information required in the application;
(2) The principal fails to satisfy any qualification or requirement imposed by this Code, or other local, State or Federal law or regulation pertaining to the particular approval for suitability sought or held;
(3) The principal illegally resides in the United States;
(4) The principal is or has engaged in a business, trade or profession without a valid license, permit, approval for suitability or work card when he knew that one was required or under such circumstances that he reasonably should have known one was required;
(5) The principal has been subject, in any jurisdiction, to disciplinary action of any kind against a license, permit, approval for suitability or work card to the extent that such disciplinary action reflects on the qualification, acceptability or fitness to be approved for suitability;
(6) The principal has committed acts which would constitute a crime involving moral turpitude or involving any Federal, State or local law or regulation relating to the same or a similar business;
(7) When substantial information exists which tends to show that the principal is dishonest or corrupt;
(8) The principal lacks sufficient financial, technical or educational ability or experience to conduct or perform the activity for which approval for suitability is sought;
(9) The principal violates any condition upon which approval for suitability was granted;
(10) The principal has engaged in deceptive practices upon the public; or
(11) The principal suffers from a legal disability under the laws of the State.
(Ord. 5517 § 23, 2002: Ord. 2187 § 1 (part), 1981: prior code § 5-4-6 (A))

6.06.260 Disciplinary action--Alternatives.

(A) Upon a showing of good cause and in the discretion of the City Council disciplinary action against a principal approved for suitability may take the form of cancellation, revocation, suspension, imposition of conditions or restrictions, or civil fines (or any combination thereof) as the particular situation may require.
(B) The Council may also impose against the principal the actual cost incurred, and a reasonable amount for attorneys' fees resulting, from the imposition of disciplinary action.
(C) The disciplinary actions available in this section shall be in addition to, and not exclusive of, any other civil or criminal remedy which otherwise might be available.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-6 (B))

6.06.270 Emergency orders -- Grounds.

(A) The Director or Metro may issue an emergency order which suspends or conditions a license upon a determination that:
(1) There has been a violation of the provisions of this Title; and
(2) Such order is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare within the City.
(B) This Section does not apply to any business licensed pursuant to Chapter 6.06A or Chapter 6.35.
(Ord. 5228 § 2, 2000: Ord. 5170 § 4, 1999: Ord. 2187 § 1 (part), 1981: prior code § 5-4-12 (A))

6.06.280 Emergency orders--Contents--Effective date.

Any emergency order issued pursuant to Section 6.06.270 shall:
(A) Set forth the grounds upon which it is issued, including a statement of facts constituting the emergency which necessitates such order;
(B) Be effective immediately upon the issuance and service thereof on the licensee or its representative or upon the posting thereof upon the licensed premises; and
(C) Indicate the period of time for which it is effective, which shall be based upon the severity of the violation and the nature of the emergency as determined by the Director or Metro.
(Ord. 5170 § 5, 1999: Ord. 2187 § 1 (part), 1981: prior code § 5-4-12 (B))

6.06.290 Emergency orders--Appeal.

A licensee who is affected by an emergency order issued under Section 6.06.270 may appeal the order by filing an appropriate action in the State of Nevada District Court to challenge or seek review of the order. Such action to appeal must be filed within ten days after the effective date of the emergency order or the right to appeal is deemed waived.
(Ord. 5170 § 6, 1999: Ord. 2187 § 1 (part), 1981: prior code § 5-4-12(C))

6.06.300 Emergency orders--Disciplinary action required.

The provisions of Sections 6.06.270 through this Section may only be used in conjunction with the commencement of disciplinary action against the person affected by such emergency order pursuant to this Chapter.
(Ord. 2187 § 1 (part), 1981: prior code § 5-4-12(D))

APPENDIX X

CREATION OF A SYMBOLIC SPEECH OR A TIME, PLACE OR MANNER CONTENT-NEUTRAL SEXUALLY ORIENTED BUSINESS ORDINANCE

THE O'BRIEN RULE

We start with United States v. O'Brien (391 U.S. 367 (1968)) where, as a symbolic protest, a demonstrator burned his draft registration certificate. This was a political act involving freedom of "symbolic" speech. Destruction of a draft certificate was made a federal crime in 1965.

The United States Supreme Court created a new test for legislation that criminalized conduct involving a "symbolic" speech element. This became known as the O'Brien Rule. That Court said:

"When speech and 'non-speech' elements are combined in the same course of conduct, a sufficiently important governmental interest in regulating the non-speech element can justify incidental limitations on First Amendment freedoms."

The Court then gives us the O'Brien Test for such a regulation saying:

> "We think a governmental regulation is sufficiently justified if,"
> (1) "It is within the constitutional power of the government"
> (2) "If it furthers an important or substantial governmental interest"
> (3) "If the governmental interest is unrelated to the suppression of free expression"
> (4) "If the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest".

The O'Brien Test is a "symbolic speech" rule and differs from a "time, place, or manner regulation of protected speech", only in the exact words of the test. Time, place or manner regulations are valid if:

> (1) "They are justified without reference to the content of the regulated speech"
> (2) "They are narrowly tailored to serve a significant governmental interest" and
> (3) "They leave open ample alternative channels for communication of information" (Clark v. Community for Creative Non Violence, 468 U.S. 288 (1984)).

The Clark Court then quotes the O'Brien Test for the regulation of "Symbolic Speech" (noted above) and says:

> "The standard of…O'Brien…is…little, if any, different from the standard applied to time, place or manner restrictions".

THE RENTON-WARD TEST

A species of time, place or manner regulation that, on its face, appears to be content-based such as classifying motion picture theaters by the nature of the films they show (Cf. Renton v. Playtime Theaters Inc., 475 U.S. 41 (1986)) can still avoid the strict scrutiny applied to content-based enactments and usual invalidity if it is a "content neutral" enactment.

In Renton, the U.S. Supreme Court approved, as content neutral, a time, place or manner regulation where the "predominate concerns" of the City Counsel, or their "predominant interest", were with the secondary effects of adult theaters and not with the content of the films and said:

> "The Renton ordinance is completely consistent with our definition of 'content neutral' speech regulations as those that 'are justified without reference to the content of the regulated speech".

The Renton Court goes on to say:

> "In American Mini Theaters, a majority of this Court decided that, at least with respect to businesses that purvey sexually explicit materials, zoning ordinances designed to combat the undesirable secondary effects of such businesses are to be reviewed under the standards applicable to 'content-neutral' time, place and manner regulations".

A later case reiterated the content-neutral requirements in a slightly altered fashion when the U.S. Supreme Court said:

> "Municipalities may impose reasonable restrictions on the time, place or manner of protected speech, provided the restrictions are (1) justified without reference to the content of the regulated speech (2) narrowly tailored to serve a significant governmental interest and (3) leave open ample alternative channels for communication of the information. (Ward v. Rock Against Racism, 491 U.S. 781 (1989))."

In Ward , the U.S. Supreme Court took the occasion to clarify the phrase "narrowly tailored" and said:

> "We reaffirm today that any regulation of the time, place or manner of protected speech must be narrowly tailored to serve the government's content-neutral interest but that it need not be the least restrictive or least intrusive means of doing so…so long as the…regulation promotes a substantial governmental interest that would be achieved less effectively absent the regulation…this…does not mean that…a…regulation may burden substantially more speech then is necessary to further the government's legitimate interests".

It would appear to be wise to comply with Renton and Ward in constructing a sexually oriented business (SOB) zoning ordinance.

CONTENT NEUTRALITY AND LEVEL OF SCRUTINY

Now it may be seen that a content-neutral sexually oriented business ordinance need not, as a content-based ordinance must, serve a compelling governmental interest and be the least restrictive means of doing so. In addition, such ordinances avoid strict scrutiny and may be judged on an intermediate or more deferential standard of review. In Ben Rich Trading Inc. v. City of Vineland, (126 F. 3d 155 (1997)) the Third Circuit said:

> "Any regulation of…sexually oriented speech that is aimed primarily at suppressing the content of the speech is subject to strict scrutiny…and unless justified by a compelling government interest is presumptively unconstitutional…However, if a regulation's primary purpose is to ameliorate the socially adverse secondary effects of speech-related activity, the regulation is deemed content-neutral and is accordingly measured by intermediate scrutiny…See Turner Broadcasting Systems Inc. v. FCC, 512 U.S. 622, 642 (1994)".

This Third Circuit court, however, also said:

> "The City must still have presented evidence of 'incidental adverse social effects that provides the important governmental interest'…and must be able to 'articulate and support its argument with a reasoned and substantial basis demonstrating the link between the regulation and the asserted governmental interest (Phillips, 107 F. 3d 17).

This justification is usually presented to the City Council or Planning Board by means of affidavits, testimony at the hearing, local studies of adverse effects, studies or "findings" in other locales (cf. Renton) prior to taking legislative action. (cf. Bamon

Corp v. City of Dayton, 730 F. Supp 80 (S.D. Ohio 1990) aff'd 923 F. 2d 470 (8th Circuit 1991))

The Third Circuit, however, does not now require the same prior to passage of the legislation and a city may present it when the ordinance is challenged. (cf. Ben Rich and Phillips) It remains to be seen whether other circuits will follow that example.

In preparing a sexually oriented content-neutral ordinance, the cause of the government can be advanced by articulating its governmental interests in the preamble or in its "findings" in the ordinance (or both). (Cf. Avalon Cinema Corp. v. Thompson, 667 F. 2d 659 (8th Cir. 1981))

It is probably a mistake to combine different types of regulation in the same ordinance for a variety of reasons, one of which is that it will draw more flack from interested opponents. The other is that if it is combined with a zoning regulation it will have to also pass muster with the Planning Board. Sometimes a mistake is made by giving existing non-conforming uses a grandfather which, of course, is not required in a non-zoning SOB regulation.

Watch also for the trap of using a percentage figure for stock in trade of sexually oriented materials as a way of defining an SOB in a zoning ordinance. This can be and is easily avoided by stocking up with trinkets, non-sexual magazines, newspapers etc. New York tried this and had a bad experience. Many cases support the phrase "substantial or significant" in reference to the amount of sexually oriented materials.

The recent case of City of Erie v. Pap's A.M. (529 U.S. 277 (2000)) is significant in making clear three concepts: (1) that the Secondary Effects doctrine is not confined to the location of a commercial enterprise, and (2) that a content-neutral ordinance may be applied to conduct, and (3) that such ordinances may be held content-neutral if they meet the O'Brien test. That Court said:

> "Justice Stevens claims that today we for the first time extend Renton's secondary effects doctrine to justify restrictions other than location of a commercial enterprise…Our reliance on Renton to justify other restrictions is not new. In Ward, the Court relied on Renton to evaluate restrictions on sound amplification".

The Court continues:

> "Erie's ordinance is on its face a content-neutral restriction on conduct…valid if it satisfies the four factor test from O'Brien for evaluating restrictions on symbolic speech.

It may be seen then that if the claimed First Amendment activity is conduct-speech, such as erotic dancing, it may be regulated by an ordinance that meets the

O'Brien test for content neutrality. Attention should be given in constructing such an ordinance to the protection of truly artistic stage or theater productions or activity otherwise protected by the First Amendment.

ESCORT AND OUTCALL ORDINANCES

The Pap's case, clarifying that O'Brien may be applied to conduct conveying a claimed erotic message, may perhaps justify its application to the regulation of the alleged Associational Rights or Dating Rights claimed in the usual prostitution-oriented escort or so-called "outcall" cases. Such an ordinance perhaps could also qualify as a content-neutral time, place or manner regulation under Clark, Ward or Renton in that ample alternative avenues to communicate whatever associational or dating information is desired can be communicated in a non-prostitution oriented atmosphere under the exemptions provided in the Outcall ordinance. In other words, the "manner" in which the "information" is conveyed is regulated to avoid deleterious secondary effects. Even if the ordinance has an effect on associational rights, it may still be valid if the effect is "de minimis" (cf. IDK v. County of Clark, 836 F.2d 1185 (9th Cir., 1988) and City of Erie v. Pap's A.M., 529 U.S. 277 (2000)). A regulation that "does not reach a substantial amount of constitutionally protected speech cannot be overbroad." (Boos v. Barry, 485 U.S. 312, 331 (1988))

In all probability, "Escort" ordinances that do not include "entertainment," such as found in "Outcall" situations, do not in any way regulate protected expression and therefore rational basis applies. The U.S. Supreme Court in FW/PBS (493 U.S. 215, 224) said, "…the ordinance applies to some businesses that apparently are not protected by the First Amendment, e.g., escort agencies and sexual encounter centers…" (See also N.W. Enterprises v. City of Houston, 27 F.Supp.2d. 754, headnotes 19, 20, footnotes 56 and 57.)

LICENSING OF OUTCALL BUSINESSES

An effective way to manage certain sexually oriented businesses, such as escort services or outcall businesses, is via licensing. The secondary effects stemming from such businesses give governing authorities the "governmental interest" in licensing them. Such governmental interests include identifying employees in order to prevent crimes -- such as prostitution and public morals violations -- to ensure that minors are not being employed, and to address public health concerns.

A licensing ordinance is unconstitutional if it gives the issuing official unbridled discretion on whether to issue the license (City of Lakewood Plain Dealer Publishing Co., 486 U.S. 750 (1988)), or does not provide procedural safeguards such as prompt judicial review. (Freedman v. Maryland, 380 U.S. 51 (1965); and FW/PBS Inc. v. City of Dallas, 493 U.S. 215 (1990)).

The public official must not be given unbridled discretion and any judgments should be controlled by standards "susceptible of objective measurement."

(See Keyishian v. Board of Regents, 385 U.S. 589 (1967) A U.S. District Court upheld the use of specific guidelines in a licensing scheme, such as age requirements, false statements on an application, unpaid fees or taxes, and whether the applicant knowingly permitted illegal conduct on the property, and said these are "objective determinable facts". (See Dumas v. City of Dallas, 648 F.Supp. 1061 (N.D. Tex. 1986))

The issue of prompt judicial review was reiterated in FW/PBS, involving a Dallas SOB ordinance, in which the Court held that in order for a licensing scheme to withstand constitutional scrutiny the licensor must make the decision on the license within a specified brief period of time, and if denied a license, First Amendment businesses must be given an "avenue for prompt judicial review." The precise meaning of "avenue for prompt judicial review" is currently being weighed by the Supreme Court in a rally permit case, Thomas v. Chicago Park Dist. (227 F.3d 921 (7th Cir. 2000) *cert. granted,* No. 00-1249, 70 L.W. 3034, summarized 70 L.W. 3043)

Outcall businesses, as distinguished from escort services, engage in "performances," ie:, they are called out to a patron's home or other locale to "dance."

Since outcall services are arguably covered by the First Amendment, in that they claim to engage in "erotic expression" or "dancing," the issue of prompt judicial review must be wrestled with in creating a licensing scheme for such businesses.

The U.S. District Court for the Southern District of Ohio in Currence v. City of Cincinnati upheld a licensing scheme for an outcall business as withstanding scrutiny under the procedural safeguards set forth in Freedman and FW/PBS. (Currence v. City of Cincinnati No. C-1-97-725 (S.D. Ohio, Western Div. July 12, 2000), available on Westlaw 2000 WL 1357918)

The Currence court held that the requirement of a "specified brief period" for administrative review was satisfied by the Cincinnati ordinance that set the waiting period for a final decision by the licensing official at a total of 70 days. (Note that the Supreme Court held that a forfeiture proceeding regarding seized obscene materials must be initiated within 74 days. United States v. Thirty-Seven Photographs, 402 U.S. 363 (1971))

In addition, the court held that the Cincinnati scheme passed muster on the prompt judicial review issue by providing that a temporary license "shall issue" in the event an applicant appealed the license denial in "a court of competent jurisdiction." Specifically, the court said:

> "Because the ordinance employs a method which ensures that speech will not be suppressed during the pendency of judicial review, the court concludes that the ordinance satisfies the prompt judicial review requirement of FW/PBS."

Also, the Currence court quoted a Sixth Circuit case, Nightclubs Inc. v. City of Paducah, (202 F.3d 884 (6th Cir. 2000)) in which the circuit court suggested ways that a municipality could satisfy the prompt judicial review requirement, saying, "…a city could also issue provisional licenses to those businesses and employees who choose to seek judicial review of license denials."

Paul J. McGeady
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Morality In Media

Checklist for Formulating an
Escort Service, or Outcall Business, Ordinance

☐ Do your state laws permit cities or counties to enact legislation of this type?

☐ Was there a review of the "findings" of other state and federal courts relating to the licensing or regulation of escort services, and if applicable outcall services? (See *Renton*, 475 U.S. 41)

☐ Were state laws reviewed with an eye toward whether the ordinance would be preempted, including any state statute that is drafted along the lines of the federal Racketeer Influenced and Corrupt Organizations law or any other state law on prostitution or the licensing of escort services?

☐ Did city/county conduct a public hearing, along with proper notice of the hearing?

☐ Was the city/county council and staff reminded that their comments will become part of the record, including statements made to the press, and that their statements should focus on the adverse secondary effects of the business, and not on prohibiting expression or on a desire to eliminate escort services from the municipality?

☐ During the hearing, was *all* of the material, such as reports, testimony and surveys, brought to the attention of the city/county council?

☐ Was a sufficient record made of all proceedings conducted prior to the enactment of the ordinance, including studies, witness accounts, reports, maps, surveys, declarations, testimony or affidavits?

☐ Does the record reflect that the predominate purpose of the city/county council was to reduce the adverse secondary effects created by escort services and not to restrict the freedom of any individual or legitimate business?

☐ Does ordinance have a preamble that articulates a legitimate government interest in regulating an escort service?

☐ Does the preamble state the city's purpose for enacting the ordinance and is the purpose related to the deleterious secondary effects of such a business?

☐ Does the ordinance define the term "escort service," and if applicable "outcall service"? If so, is there a distinction made between "service-oriented escort service" and "sexually oriented escort service"?

☐ Is there a memorandum of law in support of the ordinance, with citations from case law?

☐ Have you considered the level of scrutiny that will apply to the terms of the ordinance?

☐ Have you determined if the ordinance is a content-neutral time, place or manner regulation to which intermediate scrutiny would apply?

☐ If you are proposing to formulate a content-neutral ordinance, is the ordinance narrowly worded so as to meet the *O'Brien* test (391 U.S. 367), which was also reiterated in *City of Erie v. Paps*? (529 U.S. 277) If so, the following five questions should be reviewed.

- ☐ Is the regulation within the constitutional power of the municipality to enact?
- ☐ Does the ordinance further an important or substantial government interest?
- ☐ Is that government interest unrelated to the suppression of free expression?
- ☐ Is the restriction(s) in the ordinance no greater than is essential to the furtherance of that government interest?
- ☐ Is there a record of any findings of the municipality of any adverse secondary effects from escort services? Did the city conduct a study on the adverse effects of escort services, or did it use studies from other municipalities or judicial findings on the adverse secondary effects of an escort service, or if applicable outcall service? (See the *Renton* case)

☐ Does ordinance have a provision that prohibits minors from being owners, employees or clients of the escort service?

☐ Does the ordinance require that the applicant be of a certain character, such as having a clean record regarding prior conviction(s) for sex crimes, prostitution and/or pimping, and if so does the nature of the crime, as well as the time period between the date of conviction and the date of the application, relate to a legitimate government interest? (See *FW/PBS v. City of Dallas*, 493 U.S. 215; 837 F.2d 1298 (5th Cir. 1988); 648 F. Supp. 1061 (U.S. Dist. 1986))

☐ Does the ordinance have a severability (savings) clause?

☐ Are you satisfied that it is not necessary to include a provision in the ordinance providing for prompt judicial review?

☐ Does ordinance have a penalty provision for noncompliance?

☐ Does the ordinance have an effective date?

The following questions should be considered, provided the provisions do not violate the statutory or case law of your state or the case law in your Circuit.

(See *IDK v. Clark County*, 836 F.2d 1185 (9th Cir. 1988); an important case involving the following.)

☐ Does ordinance prohibit the escort service from operating in a sexually oriented manner and does it include definitions of a service-oriented escort service as well as a sexually oriented escort service?

☐ Does ordinance have definitions that state that a service-oriented escort service does not advertise that sexual conduct will be provided and that the service does not offer or provide sexual conduct?

☐ Does the ordinance prohibit the escort service from operating without a license?

☐ Does the ordinance have a provision prohibiting any person to work as an escort unless he/she is employed by a licensed escort service?

☐ Does the ordinance require that the escort service owner and employees and any of its providers of escort services possess work identification cards?

☐ Does ordinance require the escort service to follow certain business and record-keeping practices, i.e.: to provide patrons with written contracts and receipts, to operate from an office open to the public at an established place of business and to keep copies of all published advertisements?