FIRST AMENDMENT

BILL NO. 2007-58

ORDINANCE NO. _____

AN ORDINANCE TO INCREASE UNDER CERTAIN CIRCUMSTANCES THE PERIOD OF TIME DURING WHICH CERTAIN NONCONFORMING USES MAY BE DISCONTINUED WITHOUT LOSING THEIR NONCONFORMING STATUS, TO PROVIDE A SIMILAR INCREASE CONCERNING THE DISCONTINUANCE OF CERTAIN TYPES OF SPECIAL USE PERMITS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilwoman Lois Tarkanian

Summary: Increases under certain circumstances the period of time during which certain nonconforming uses may be discontinued without losing their nonconforming status, and provides a similar increase concerning the discontinuance of certain types of special use permits.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Title 19, Chapter 16, Section 30, Subsection (A), of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

(A) Nonconforming Use of a Conforming Building.

(1) General Provisions. A nonconforming use of a conforming building shall not be continued following redevelopment of the property, extended or expanded into any other portion of the conforming building, or relocated on the same parcel or within the same commercial subdivision; provided, however, that an existing use which was made nonconforming by one or more of the following may be continued following redevelopment, expanded , or relocated on the same parcel or within the same commercial subdivision in accordance with Subsection (2) of this Subsection (A):

(a) The adoption of a Special Use Permit requirement for that type of use;

(b) The adoption of a four hundred foot or one thousand five hundred foot separation requirement between that type of use and a protected use;

(c) The adoption of a one thousand five hundred foot separation requirement between two uses of that type;

(d) The establishment of a protected use that, by virtue of a four hundred foot or one thousand five hundred foot separation requirement, would otherwise prohibit the existing use from

expanding or from continuing following redevelopment; or

(e) The adoption of a different method of measuring distance for purposes of a separation requirement.

(2) Conditions of Allowable Continuation, Expansion, or Relocation of Use. If the proposed expansion or continuation of a nonconforming use following redevelopment, or relocation of the use on the same parcel or within the same commercial subdivision, qualifies under Subsection (1) of this Subsection (A) and no Variance from (or Waiver of) a separation requirement has previously been granted for the property, the nonconforming use may be expanded or continued following redevelopment, or relocated on the same parcel or within the same commercial subdivision, if the proposed expansion, continuation or relocation:

(a) Will not increase the size or extent of the use by more than fifty percent; and

(b) Will not require a Variance or Waiver regarding any other provision of Title 19, including those that pertain to parking, landscaping and residential adjacency requirements.

(3) Discontinuation of Use. If a nonconforming use of a conforming building is discontinued for a period of one [hundred eighty days,] <u>year,</u> or [one year] <u>two years</u> in the case of a conforming building that has been damaged or partially destroyed by fire, flood, wind, another calamity or an act of God, the future use of such building shall be only in conformance with the provisions of this Title. In addition, nonconforming uses of a conforming building shall be discontinued upon written notice from the City to the owner to discontinue the use. The use shall be discontinued no later than the date described in the notice, which in no event shall be later than five years from the date notice is given. Notice shall be provided by mailing to the owner of the property as shown by the County Assessor's records and recording a copy of the notice in the office of the County Recorder. Such notice shall contain the legal description of the property, a description of the use required to be discontinued, the date that the use is to cease and desist and the Section of this Title which declares the use to be nonconforming.

SECTION 2: Title 19, Chapter 18, Section 60, Subsection (P), of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

(P) Termination.

(1) Failure to Exercise.

(a) A Special Use Permit which cannot be exercised except upon construction of a new building, and which is not exercised within two years after approval, shall be void, unless the City Council grants an extension of time upon a showing of good cause. An extension of time may be granted only if application therefor is made prior to the expiration of the two-year period. For purposes of this Subparagraph (a), a Special Use Permit is exercised upon the issuance of a building permit for the new construction.

(b) A Special Use Permit which does not require the construction of a new building in order to be exercised, and which is not exercised within one year after approval shall be void, unless the City Council grants an extension of time upon a showing of good cause. An extension of time may be granted only if application therefor is made prior to the expiration of the one-year period. For purposes of this Subparagraph (b), a Special Use Permit is exercised upon the approval of a business license to conduct the activity, if one is required, or otherwise, upon the issuance of a certificate of occupancy or approval of a final inspection.

(2) Cessation of Use. A Special Use Permit shall be void without further action if:

(a) The Special Use Permit was issued for alcoholic beverage use and such use ceases for one hundred and eighty days or more**[;]**<u>, or twenty-four months or more if the building in which the use was being conducted has been damaged or partially destroyed by fire, flood, wind, another calamity or an act of God;</u> or

(b) The Special Use Permit was issued for a use other than alcoholic beverage use and such use ceases for twelve months or more**[.]** <u>, or twenty-four months or more if the building in which the use was being conducted has been damaged or partially destroyed by fire, flood, wind, another calamity or an act of God.</u>

SECTION 3: For purposes of Section 2.100(3) of the City Charter, LVMC 19.16.030 and 19.18.060 are deemed to be subchapters rather than sections.

SECTION 4: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or

effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 5: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2007.

APPROVED:

By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

_____
BEVERLY BRIDGES, CMC
City Clerk

APPROVED AS TO FORM:

Val Steed 10-17-07
Date

The above and foregoing ordinance was first proposed and read by title to the City Council on the _____ day of _____, 2007, and referred to the following committee composed of _____ and _____ for recommendation; thereafter the said committee reported favorably on said ordinance on the _____ day of _____, 2007, which was a _____ meeting of said Council; that at said _____ meeting, the proposed ordinance was read by title to the City Council as amended and adopted by the following vote:

VOTING "AYE": _____

VOTING "NAY": _____

ABSENT: _____

APPROVED:

By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

_____
BEVERLY BRIDGES, CMC
City Clerk