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BILL NO. _____

SUMMARY – An ordinance to amend Clark County Code Title 4, Chapter 4.08, Section 4.08.005 and Title 8, Chapter 8.04, Subsection 8.04.010.145 and Section 8.04.310 to revise the definition of “resort hotels”; and providing for other matters properly related thereto.

ORDINANCE NO. _____

(of Clark County, Nevada)

AN ORDINANCE TO AMEND CLARK COUNTY CODE TITLE 4, CHAPTER 4.08, SECTION 4.08.005 AND TITLE 8, CHAPTER 8.04, SUBSECTION 8.04.010.145 AND SECTION 8.04.310 TO REVISE THE DEFINITION OF “RESORT HOTELS”; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. Title 4, Chapter 4.08, Section 4.08.005 of the Clark County Code is hereby amended to read as follows:

4.08.005 – Definitions.

The following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future, and words in the singular number include the plural and the plural the singular. Words not defined in this section shall have their generally accepted meanings unless otherwise defined in Chapters 6.04, 6.08, 8.04, and 8.08 of the Clark

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County Code. The director shall have the authority to interpret words in accordance with established practice.

- (1) "Attrition" means the use or occupancy of less than an agreed upon number of sleeping rooms/spaces by a group of persons.
- (2) "Board" means the board of county commissioners of Clark County, Nevada.
- (3) "Cancellation" means notification of a transient lodging establishment by a person or group of persons that they will not use or occupy one or more reserved sleeping room(s)/space(s).
- (4) "Complimentary room" means when a transient lodging establishment furnishes transient lodging for the occupancy of a transient guest for which there is no rent paid and no transient lodging tax applies. The complimentary room must be for a room/space that is actually occupied by a transient guest or group organizer. Reductions to gross receipts must not exceed actual rents posted on group organizer's master account or invoice. For example:

Example 1. An operator of a transient lodging establishment furnishes, free of rent, transient lodging to a frequent guest. These are complimentary rooms deemed to have been furnished gratuitously, and as such are not subject to the transient lodging tax imposed under the provisions of this chapter.

Example 2. An operator of a transient lodging establishment furnishes, free of rent, transient lodging to persons or group organizers who procure transient guests for the transient lodging establishment that is based on a performance requirement of the group organizer, such as one rent-free room for every forty rooms booked by group attendees. The transient

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lodging furnished, free of rent, to those persons or group organizers are complimentary rooms if such transient lodging is used or occupied by those persons or group organizers and are not subject to the transient lodging tax imposed under the provisions of this chapter.

(5) "County" means Clark County, Nevada, excluding incorporated cities, unless otherwise indicated.

(6) "Director" means the director of the Clark County department of business license.

(7) "Discount" means when a transient lodging establishment offers a reduction in rent to a transient guest and the reduction is applied to the specific room/space occupied by the transient guest. A discount may take a number of forms such as an absolute value (e.g., one hundred dollars), a percentage value (e.g., ten percent) or a rebate (e.g., a twenty dollars room voucher received after a three-night stay). The discounted rent is subject to the transient lodging tax specified in this chapter. Reductions to gross receipts must not exceed actual rents posted on group organizer's master account or invoice. For example:

Example 1. An operator of a transient lodging establishment offers transient guests a ten percent discount off the normal rent as a promotional offer. As the operator only receives ninety percent of the normal rent, the transient lodging tax would be calculated on the discounted rent.

Example 2. An operator of a transient lodging establishment charges and collects rent and transient lodging taxes from a group of attendees. In consideration for procuring the transient guests, the operator of the transient lodging establishment applies a reduction to the group organizer's master account or invoice equal to ten percent of each attendee's room

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rent. This reduction to the group organizer's master account or invoice is a group rebate, not a discount in rent and shall not be used to reduce gross receipts or to reduce the transient lodging taxes imposed under the provisions of this chapter except as set forth in the following sentence. The operator of a transient lodging establishment may apply a discount in rent to specific rooms occupied by the group organizer to reduce gross receipts and transient lodging taxes only if the reduction is not based on the number of rooms occupied by transient guests procured by the group organizer. In this example, a ten percent discount may be applied to specific rooms occupied by the group organizer and may be used to reduce the group organizer's room revenue and transient lodging tax for those rooms occupied by the group organizer.

Example 3. An operator of a transient lodging establishment credits a group organizers' account for the value of a certain number of rooms based on the number of guests procured by the group organizer. The value of such rooms is a group rebate, not a discount in rent and must not be used to reduce gross receipts or to reduce the transient lodging taxes imposed under the provisions of this chapter except as set forth in the following sentence. The operator of a transient lodging establishment may apply a discount in rent to specific rooms occupied by the group organizer to reduce gross receipts and transient lodging taxes only if the reduction is not based on the number of rooms occupied by transient guests procured by the group organizer. In this example, a five dollar discount may be applied to specific rooms occupied by the group organizer and may be used to reduce the group organizer's room revenue and transient lodging tax for those rooms occupied by the group organizer.

(8) "Exchange company" means a company that operates a time-share exchange program.

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- (9) "Exchange fees" means any fees paid to an exchange company associated with the exchange of occupancy rights among owners of time-shares participating in a time-share exchange program, and for no other purpose, which fees are uniformly established by country for owners of time-shares participating in the time-share exchange program.
- (10) "Gross receipts" means the total amount of rent received and any forfeited deposits valued in money, whether accepted in money or otherwise, received by operators, not including the amount of the combined transient lodging tax imposed by this chapter whether or not it is billed to the transient guest as a combined transient lodging tax. Gross receipts shall not include refunds, uncollected rent that is written off as bad debt, discounts, or room allowances. Gross receipts shall include recoveries of rent previously written off as bad debt. Gross receipts shall not be reduced unless expressly allowed by the provisions of this chapter. Reductions to gross receipts must not exceed actual rents posted to an account of invoice.
- (11) "Group organizer" means a person that procures a group of transient guests for a transient lodging establishment who may or may not be directly affiliated with the group.
- (12) "Group rebate" means that portion of rent collected by an operator from transient guests of a transient lodging establishment that is paid or credited directly to a group organizer. The group rebate must not be used to reduce taxable gross receipts or the transient lodging tax imposed under the provisions of this chapter.
- (13) "Individual" means a human being.

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- (14) "Occupancy" means the use or possession, or the right to the use or possession of any sleeping room/space or portion thereof, in a transient lodging establishment for dwelling, lodging, or sleeping purposes.
- (15) "Occupant" means any person who, for rent, uses, possesses or has the right to possess any sleeping room/space in a transient lodging establishment under any lease, concession, permit, right of access, license, contract or agreement.
- (16) "Operator" means the person who is the proprietor of a transient lodging establishment, whether in the capacity of owner, lessee, sublessee, mortgagee, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal.
- (17) "Package" means any aggregation of rights to rooms, food, refreshments, merchandise, entertainment, recreation, services, and/or other items grouped as a single unit and sold for a single price.
- (18) "Permanent resident" means any individual who has or shall have the right of occupancy in a sleeping room/space at the same transient lodging establishment for thirty-one consecutive days or more, and for whom rent is exempt from the transient lodging tax on the thirty-first day and every consecutive day thereafter, provided the individual continues to occupy or continues the right to occupy a sleeping room/space at the same transient lodging establishment.

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(19) "Person" means an individual, firm, partnership, joint venture, joint stock company, association, estate, trust, corporation, or other legal entity in whatever form and character acting in a representative capacity.

(20) "Primary gaming corridor" means the geographic boundaries as depicted on the map attached to Ordinance 4448 and designated "Primary Gaming Corridor." Any parcel, building or other structure located partially within the primary gaming corridor is deemed to be wholly within the primary gaming corridor.

(21) "Refund" means the return of money to a transient guest who paid rent for the right to use a sleeping room/space in a transient lodging establishment, or a reduction in rent applied to a specific room/space to allow for issues resulting in the inconvenience to transient guests with the transient lodging establishment including, but not limited to, cable TV or the air conditioning or heating not working properly.

(22) "Rent"

(a) Means the amount charged for a sleeping room/space in a transient lodging establishment, valued in money, whether received in money or otherwise, and including the following, regardless of whether separately stated:

(i) Charges that would normally be part of an all inclusive room rate, such as, but not limited to, payment processing fees, check-in fees, accommodation fees, facility fees, access fees, charges for additional guests, late check-out fees, and utility surcharges;

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- (ii) Charges applicable to cleaning and readying such room/space for occupancy including, but not limited to, linen fees, cleaning fees, and non-refundable deposits;
 - (iii) Charges for rental of furnishings and appliances including, but not limited to, cribs, rollaways, refrigerators, televisions, microwaves, and in-room safes;
 - (iv) Room charges applicable to pets including, but not limited to, non-refundable pet cleaning fees/deposits;
 - (v) Charges associated with attrition, cancellation, late arrival, or failure to occupy a room, including, but not limited to, attrition fees, cancellation fees, late arrival fees, early departure fees, and no-show fees;
 - (vi) Reimbursements received for use of a sleeping room/space under incentive programs, such as, but not limited to, frequent guest programs or rewards programs;
 - (vii) The value of a sleeping room/space included as a component of a package, pursuant to Section 4.08.035;
 - (viii) Any charges for services, amenities, accommodations, or use, not otherwise specified above, that are mandatory in nature and charged in connection with rental of a sleeping/room space.
- (b) Shall not include the charge for any food served or personal services rendered to the transient guest, including, but not limited to, valet service, room service, or delivery service.

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- (23) "Resort hotel" means a building or complex of buildings or other structures kept, used, maintained, advertised, and held out to the public to be a hotel or motel wherein food is served, in which a minimum of two hundred rooms ~~[three hundred or more rooms]~~ are used for sleeping accommodations, and which has, at a minimum, the amenities set forth in the definition of "resort hotel" at Chapter 8.04, all of which are directly connected to the complex or building and the proposed or existing gaming operation and operated in such manner as to form a part of the same operation and complex.
- (24) "Room allowance" means either a complimentary room or a discount, as defined in Section 4.08.005 of this chapter.
- (25) "Shall" means must and is mandatory.
- (26) "Senate Bill 1" or "SB1" means Senate Bill 1 of the 30th Special Session (2016) of the Nevada State Legislature that establishes an increase in the transient lodging tax for Clark County for the stadium district and for the expansion of the Las Vegas Convention Center.
- (27) "Stadium authority" means the Clark County Stadium Authority created by Section 21 of Senate Bill 1 of the 30th Special Session (2016) of the Nevada State Legislature.
- (28) "Stadium district" means the district created by Section 21 of Senate Bill 1 of the 30th Special Session (2016) of the Nevada State Legislature, which consists of all property located within (a) the county, including, without limitation, all property located within an incorporated city in the county: and (b) a radius of twenty-five miles from the location at which the board of county commissioners holds its regular

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meetings as of the date of the passage and approval of SB 1. Any parcel, building or other structure located partially within the stadium district is deemed to be wholly within the stadium district.

(29) "Time-share exchange program" means a program for the exchange of occupancy rights among owners of time-shares in a time-share plan or with the owners of time-shares in other time-share plans, or both.

(30) "Time-share instrument" shall have the meaning set forth in NRS 119A.150.

(31) "Time-share plan" shall have the meaning set forth in NRS 119A.152.

(32) "Time-share project" shall have the meaning set forth in NRS 119A.080 for the term "project."

(33) "Transient guest" means any individual natural person who has or shall have the right of occupancy to any sleeping room/space in a transient lodging establishment for thirty consecutive days or less.

(34) "Transient lodging" means the use of, possession of, or right to possess, for rent, a sleeping room/space in a transient lodging establishment under a lease, concession, permit, right of access, license, contract, or agreement.

(35) "Transient lodging establishment" means any facility, structure, or portion of any structure which is occupied or intended or designed for occupancy by a person or persons who pay rent for dwelling, lodging, or sleeping purposes, and includes any hotel, resort hotel, motel, bed and breakfast, lodging house, time-share project, vacation home, apartment house, recreational vehicle park/campground, or other similar structure or facility, or portion thereof. The term "transient lodging establishment" does not include any of the following: any hospital, sanitarium,

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medical clinic, convalescent home, nursing home, home for the aged people, foster home, or other similar facility operated for the care or treatment of individuals; any asylum, jail, prison, orphanage or other facility in which individuals are detained and housed under legal restraint; and housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees, and any fraternity or sorority house or similar facility occupied exclusively by students and employees of such education institution, and officially recognized by it; any housing operated or used exclusively for religious, charitable or education purposes by any organization having qualifications for exemption from property taxes and under the laws of the state; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any room within a private dwelling house or other single-family dwelling unit if the permanent or principal owner also resides in and occupies the dwelling; any unit within a time-share project occupied by an owner, or the nonpaying guests of an owner, of a time-share in a time-share project, or in the time-share plan of which the time-share project is a part, who has the right to use or occupy a unit, pursuant to: (a) time-share instrument; or (b) a time-share exchange program. The burden of establishing that the housing or facility is not a transient lodging establishment as defined herein shall be on the owner thereof, who shall file with the director such information as the director may require to establish and maintain such status.

SECTION TWO. Title 8, Chapter 8.04, Section 8.04.010.145 of the Clark County Code is hereby amended to read as follows:

8.04.010.145 – Resort hotel.

"Resort hotel" means a building or complex of buildings or other structures kept, used, maintained, advertised, and held out to the public to be a hotel or motel wherein food is served,

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in which a minimum of two hundred rooms ~~[three hundred or more rooms]~~ are used for sleeping accommodations, and which has a minimum of the following amenities all of which are directly connected to the complex or building and the proposed or existing gaming operation and operated in such a manner as to form a part of the same operation and complex:

- (1) One main bar as defined in Chapter 8.20 of this code; and
- (2) One service bar prepared for service only; and
- (3) Entertainment which includes at least one of the following:
 - (a) One facility with at least twenty-five seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artist) for at least six hours per day, six days per week, or
 - (b) One facility with at least six hundred seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artists) on a semi-regular basis (at least six times per year) that also provides additional suitable entertainment within the resort hotel as determined and authorized by the board that is reflective of the resort hotel's theme or operational motif; and
- (4) Restaurant service as defined in Chapter 8.20 of this code provided twenty-four hours a day, seven days a week; and
- (5) Room service to all rooms, including, without limitation, service of meals; and
- (6) A recreational facility which includes at least one of the following:
 - (a) Four regulation tennis courts with locker rooms and attendant facilities, or



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- (b) One swimming pool that is swimmable and adequate in relationship to the size of the resort hotel as approved by the board, or
- (c) One regular golf course consisting of at least nine holes comprising at least fifty acres, or
- (d) One fitness center consisting of a minimum of two thousand four hundred square feet equipped with a full complement of exercise equipment adequate in relation to the size of the fitness center.

Resort hotels initially licensed after November 1, 1998, or those locations which have lost their grandfather status as defined at Section 8.04.310 of this chapter, must meet the following additional amenity requirements:

- (7) A minimum of twenty thousand square feet of casino area. For the purpose of this section, casino area includes areas dedicated to the placement of slot machines and live games, and may include race book, sports book and bingo and is exclusive of all retail areas; and
- (8) A minimum of ten thousand square feet of retail area under one roof. For the purpose of this section, retail area includes food and/or beverage service in restaurants, buffets, coffee shops and lounges, gift stores or other retail stores, and is exclusive of the casino area, kitchens and food and/or beverage service to rooms, recreational areas and outside dining areas; and
- (9) A minimum capital and/or debt investment of fifty million dollars in the real property, improvements and personal property comprising the resort hotel or, in the alternative, a market value appraisal of the real property, improvements and personal

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property comprising the resort hotel indicating a minimum value of fifty million dollars. The appraisal report must be prepared by a state certified appraiser and must reflect a value as of a date within sixty days of board consideration.

When determining whether a particular applicant complies with the resort hotel definition, the board may consider:

- (1) The physical layout of buildings and facilities; and
- (2) The unity of title and ownership of the buildings or complex; and
- (3) The operation and management relationship of gaming to hotel administration.

SECTION THREE. Title 8, Chapter 8.04, Section 8.04.310 of the Clark County Code is hereby amended to read as follows:

8.04.310 License issuance—Restricted to certain hotels and motels.

(A) Except as otherwise provided in this section, no new application for a Class C slot machine license, or for any live game license, shall be granted except to a resort hotel as defined in Section 8.04.010.145 ~~[8.04.010(X)]~~, or to rural resorts as defined in Section 8.04.010.155 ~~[8.04.010(Y)]~~ which had been licensed prior to July 1, 1992.

(B) Any establishment which as of December 31, 1985 under previous grandfather regulations or exceptions to the resort hotel requirement shall be deemed nonconforming, and shall continue to be subject to license renewal so long as the applicant remains suitable. If the premises are not licensed for gaming for over eighteen consecutive months, the premises are no longer deemed nonconforming and must comply with subsection (A) of this section. Such nonconforming license may not be expanded or enlarged beyond the number and type

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of live games and slot machines licensed on March 1, 1983, or granted by the board upon the application made pursuant to Regulation G-67-83.

- (C) In the event a Class C slot machine or live game licensee does not commence business within sixty days after issuance of license, or discontinues business for a period of sixty days without specific approval of the board, such license shall be limited, conditioned, suspended or revoked as provided in Chapter 8.08 unless the licensee cannot commence operating said facilities, or discontinues the availability of such facilities to the public due to remodeling, labor disputes, or reasons beyond its control, then said licensee shall petition the board, which, for good cause shown, may grant additional sixty-day extensions, not to exceed, however, a total period of one year including said initial sixty-day period.
- (D) The following establishments are deemed grandfathered pursuant to the conditions of subsection (B) of this section and shall not be required to conform to the two-hundred-room ~~[three-hundred-room]~~ requirement of the resort hotel definition contained in Section 8.04.010 of this chapter:
- (1) All hotel or motel establishments to which a Class C and/or an unrestricted live game license was issued prior to December 31, 1985 pursuant to subsection (B) of this section; or
 - (2) Establishments which had obtained a use permit, and, if required, a zone change to construct a one-hundred-fifty-room resort hotel as defined in this title prior to March 1, 1986, and which had complied with the actual construction requirement of the Clark County Building Code and as that term is defined in Chapter 30.32 ~~[Chapter~~

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~~29.56~~] of this code within the time provided in the original unamended use permit or zone change.

(E) Any establishment which had not been licensed for live games prior to March, 1984, and:

- (1) Had obtained a building permit for the construction of a casino on or before March 1, 1973; and
- (2) Had completed construction of said casino on or before March 1, 1974; and
- (3) Had filed its application for a Clark County live gaming license prior to September 30, 1973, or which:
 - (a) Had obtained a building permit for the construction of a hotel and casino having over one hundred fifty hotel rooms with full restaurant, bar, and lounge facilities on or before December 31, 1976; and
 - (b) Had completed construction of said hotel and casino on or before June 30, 1980; and
 - (c) Had filed its application for a Clark County unrestricted live game license or for a Class C slot machine license prior to March 1, 1980, may be issued a Class C slot machine license and a license to deal, operate, carry on, conduct, maintain or expose live games for play if the applicant or applicants therefor are found to be suitable by the licensing board.

(F) Any establishment may be issued a gaming license for fifty slot machines, which:

- (1) Had a live gaming license during or prior to 1952; and
- (2) Was licensed for fifty slot machines and five live games prior to July 1981; and

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- (3) Had applied for a Class C slot machine license prior to July, 1976; and
 - (4) Had acquired a use permit to construct a one-hundred-fifty-room resort hotel prior to March 1, 1986.
- (G) An applicant may be granted an unrestricted live game license, bingo license, and a Class C slot machine license for a casino operation which is an integral part of a planned unit development which complies with the following conditions:
- (1) Not less than four separate operating hotels and providing a combined total of not less than two thousand guest rooms; and
 - (2) Only private street entry to hotels and casino; and
 - (3) All property development of hotels and casino and related facilities controlled by recorded covenants, conditions and restrictions with coordinated architectural design, landscaping, signage, lighting and parking finished pursuant thereto; and
 - (4) A central mixed-use building which will contain not less than five hundred thousand square feet, including:
 - (a) A casino not less than seventy-five thousand square feet including administrative and support areas; and
 - (b) Live entertainment area not less than nine thousand square feet; and
 - (c) An area to be leased to restaurants and food vendors containing an aggregate area of not less than eighty thousand square feet; and
 - (d) Other retail and entertainment areas and multi-story parking structures;

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- (5) Not less than two operating recreation facilities as defined in Section 8.04.010.145(6)
~~[8.04.010(X)(6)]~~.

The gaming license may be approved but shall not be issued or delivered before substantial completion of the central mixed-use building described above and the above hotel facilities have received certification of occupancy from the building department. Gaming shall be limited to the central casino only and is prohibited in any other area of the development whether individual hotels therein qualify as "resort hotels" or not.

A "planned unit development" is defined as a tract of land of not less than seventy-five gross acres which is developed as an integrated unit. The development thereof and open space, streets, and landscaped areas are controlled and maintained by a single entity. Each hotel may be situated upon its own subdivided parcel.

If, at any time, less than two hundred ~~[three hundred]~~ rooms and one hotel are open and available for immediate occupancy for a period of over sixty consecutive days, the gaming license shall automatically suspend and all gaming shall cease until such rooms are available. In such event, the licensee may apply to the board, and upon good cause shown for such unavailability of rooms or hotel closure, the board may allow gaming to continue upon such restrictions or conditions as it deems proper.

This planned unit development exception to the resort hotel requirement automatically expires August 31, 1990 and only those applicants which are part of a development which has complied with actual construction of the hotel structures CCC 30.42 ~~[(CCC 29.56)]~~ by that date may apply for licensure pursuant to this paragraph.

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- (H) County Airport. An applicant may be granted an unrestricted Class C slot machine and coin-operated gaming device license where they are authorized through lease or other arrangement with Clark County for operations in airport terminal buildings owned or leased by Clark County under the auspices of NRS Chapters 495 or 496 and NRS 463.177.
- (I) Any rural resort which as of July 1, 1992 under previous regulations or exceptions to the resort hotel requirement was licensed shall be deemed nonconforming, and shall continue to be subject to license renewal so long as the applicant remains suitable. If the premises are not licensed for gaming over eighteen consecutive months, the premises are no longer deemed nonconforming and must comply with the resort hotel definition and subsection (A) of this section. Such nonconforming license may not be expanded or enlarged beyond the number and type of live games and slot machines licensed on July 1, 1992.

SECTION FOUR. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the remaining parts of this ordinance. It is the intent of the County Commission in adopting this ordinance that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this ordinance are declared to be severable.

SECTION FIVE. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

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SECTION SIX. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the _____ day of _____, 2021.

PROPOSED BY: Commissioner _____

PASSED on the _____ day of _____, 2021.

AYES: _____

NAYS: _____

ABSTAINING: _____

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ABSENT: _____

BOARD OF COUNTY COMMISSIONERS

BY: _____
MARILYN KIRKPATRICK, Chair

ATTEST:

LYNN MARIE GOYA, County Clerk

This ordinance shall be in force and effect from and after
the _____ day of _____ 2021.