

BILL NO.

(Amend Henderson Municipal Code Chapter 4.03 - Background Investigation and Fees)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO AMEND CHAPTER 4.03 – BACKGROUND INVESTIGATION AND FEES – OF THE HENDERSON MUNICIPAL CODE AND MATTERS PROPERLY RELATED THERETO.

- WHEREAS, Ordinance 1301 was adopted on April 21, 1992; and
WHEREAS, Ordinance 2057 was adopted on July 3, 2001; and
WHEREAS, Ordinance 2238 was adopted on December 16, 2003; and
WHEREAS, Ordinance 2744 was adopted August 19, 2008; and
WHEREAS, updates are currently required to ensure consistency with the Nevada Revised Statutes, and City policies and practices; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Chapter 4.03 – Background Investigation and Fees is hereby amended as follows:

Sections:

- 4.03.010 [Designated] Investigation, suitability conditioned on – Authorization for fingerprinting.
4.03.020 Levels of background investigations [—Established as minimum].
4.03.025 Finding of suitability – Final determination by director.
4.03.027 Background investigation waived – When.
4.03.030 Reserved.
4.03.040 Investigation [F] fee schedule.
4.03.045 No refund of investigation fee.
4.03.047 Providing false or misleading information – Misdemeanor violation.
4.03.050 Reserved [Type of license by level].
4.03.060 Reserved [General provisions].

4.03.010 [Designated.] Investigation, suitability conditioned on – Authorization for fingerprinting.

Every person submitting an application for a license and/or [work permit] a finding of suitability pursuant to this chapter is subject to a background investigation [to determine suitability for the license or work permit]. An FBI fingerprint-based investigation must be conducted prior to the issuance of any license or a finding of suitability [work permit set forth below].

Pursuant to NRS 239B.010(1)(a) and [P.L.] Federal Public Law 92-544, each

applicant for a city business license and/or [work permit] a finding of suitability [set forth in HMC 4.03.050] shall provide to the police department a full set of his or her fingerprints [to the police department as a condition of issuance of the business license or work permit including] and all other information required by the FBI or the police department for an FBI background check.

The police department is authorized to submit the fingerprints of an applicant for a business license and/or a finding of suitability [work permit set forth in HMC 4.03.050], plus any required fees and any other information required for the background check and for submission by the central repository, to the FBI to obtain the FBI nationwide background check of the applicant. The Nevada Department of Public Safety is [hereby] authorized by the applicant by virtue of submission of an application pursuant to this chapter, to exchange such fingerprint data with the FBI for purposes of the background check.

Failure of an applicant for a business license and/or a finding of suitability [work permit set forth in HMC section 4.03.050] to submit to full fingerprinting or to provide information required by this section [is] constitutes grounds for denial of the application and/or finding of suitability.

(Ord. 2744, § 1, 2008; Ord. 2057, § 2, 2001; Ord. 1301, § 21, 1992)

4.03.020 Levels of background investigations [—Established as minimum].

A. [The city police department will perform one of the following levels of background investigation when required to do so by this chapter:

1. Level 1: Criminal history check; conduct reference check; verify status of other similar business licenses held in Clark County; verify accuracy of background questionnaires.

2. Level 2: Criminal history check; conduct reference check; verify status of other similar business licenses held in Nevada; conduct credit check; verify accuracy of background questionnaires.

3. Level 3: Criminal history check; conduct reference check; verify status of other similar business licenses regardless of jurisdiction; conduct credit check; confirm funding for startup investment; verify accuracy of background questionnaires.] Full Investigation - Unless otherwise specified, all applicants for a business license and/or a finding of suitability must undergo a Full Investigation. The Full Investigation may include, but is not limited to, the following:

1. Criminal history check;

2. Reference check;

3. Verification of other similar business licenses of applicant regardless of jurisdiction;

4. Credit history check;

5. Confirmation of funding for startup investment; and

6. Verification of background investigation questionnaires.

B. [The scope of each level shall be the minimum performed for a background investigation. A "criminal history check" referenced above shall be limited to a search of Henderson police department records of criminal history and/or a direct inquiry placed by such department to another police agency which is an original repository of such a record of the applicant under investigation.] Limited Investigation - The Limited Investigation is applicable only to:

1. Employees of businesses licensed pursuant to chapter 4.60 - Teenage Dancehalls – Nightclubs;

2. Employees of businesses licensed pursuant to chapter 4.72 – Mobile Food Vendors; and

3. Employees of businesses licensed pursuant to chapter 4.110 – Sexually Oriented Businesses, other than escorts and outcall entertainers.

The Limited Investigation may include, but is not limited to, a state criminal history check.

(Ord. 2238, § 1 (part), 2003; Ord. 2057, § 4, 2001)

4.03.025 Finding of suitability – Final determination by director.

Upon completion of the Full or Limited Investigation, the police department will provide a report of the department's findings to the director. The director is authorized to utilize the report in issuing the final determination for the finding of suitability for the applicant.

4.03.027 Background investigation waived – When.

A. No investigation fee or new background investigation will be required of any applicant who has been previously investigated by the city provided that:

1. The previous investigation was done at the same level as is required for the new business license application and/or finding of suitability; and

2. The applicant has held an active privileged city license within one year immediately preceding the submission date of the present application.

B. A new investigation fee and background investigation will be required of any applicant who may have been previously investigated by the city but has not held an active privileged city license within one year preceding the submission date of the present application.

C. In each case, the applicant must obtain council approval prior to issuance of any privileged license.

4.03.030 Reserved.

4.03.040 Investigation f[F]ee schedule.

- A. The Full Investigation fee shall be \$250.[Level 1 will be \$100.00.]
- B. The Limited Investigation fee shall be \$50.[Level 2 will be \$175.00.]
- C. Level 3 will be \$250.00.]

(Ord. 2382, § 4, 2005; Ord. 2057, § 6, 2001)

4.03.045 No refund of investigation fee.

If an applicant is denied a license after investigation, the investigation fees shall not be refunded to the applicant.

4.03.047 Providing false or misleading information – Misdemeanor violation.

Failure to provide all required information or providing false or misleading information in the background investigation questionnaire or during the course of an investigation shall constitute grounds for denial of the application or revocation of an existing permit or license, and shall constitute a misdemeanor, if done purposely with the intent to mislead the city.

4.03.050 Reserved.[Type of license by level.

- A. Level 1:
 - 1. Astrologer;
 - 2. Hypnotist;
 - 3. Locksmith and safe mechanics;
 - 4. Mobile food vendor;
 - 5. Outcall entertainer;
 - 6. Psychic arts and practitioners;
 - 7. Reflexologist.
- B. Level 2:
 - 1. Alarm installation;
 - 2. Auctioneer;
 - 3. Pawnbroker;
 - 4. Secondhand dealer;
 - 5. Teenage dancehalls and teenage nightclubs.
- C. Level 3:
 - 1. Dating and escort bureaus;

2. Gaming;
3. Liquor;
4. Massage establishment;
5. Outcall promoter;
6. Reflexology establishment;
7. Sexually oriented business.

(Ord. 2845, § 1, 1-19-2010; Ord. 2800, § 3, 1-20-2009; Ord. 2057, § 7, 2001)]

4.03.060 Reserved. [General provisions.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The city clerk is instructed and authorized to publish the title to this ordinance as provided by law.

The ordinance codified in this chapter shall become effective upon passage, approval and publication.

The provisions of the ordinance codified in this chapter shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.

If any section, phrase, sentence or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

The city council finds that this ordinance is not likely to impose a direct and significant burden upon a business or directly restrict the formation, operation, or expansion of a business, or is otherwise exempt Nevada Revised Statutes chapter 237.

(Ord. 2744 § 2, 2008)]

END OF ORDINANCE