

SUMMARY: THIS ORDINANCE AMENDS TITLE 4 OF THE LINCOLN COUNTY CODE BY ADDING TWO CHAPTERS RELATING TO BUSINESS AND LICENSE REGULATION AND AMENDING THE OTHER SEVEN CHAPTERS PREVIOUSLY EXISTING.

LINCOLN COUNTY ORDINANCE NO: 2009-_____

TITLE: AN ORDINANCE AMENDING TITLE 4 OF THE LINCOLN COUNTY CODE RELATING TO BUSINESS AND LICENSE REGULATION.

WHEREAS, Lincoln County is a County incorporated and operating under the laws of the State of Nevada; and

WHEREAS, NRS 244.150 authorizes the Board of County Commissioners to levy taxes; and

WHEREAS, the Board of County Commissioners finds it prudent to protect the health, safety, and welfare of the County by regulating businesses and licenses, and

WHEREAS, the Board of County Commissioners finds it prudent to add a chapter regarding the general provisions of businesses and licenses in Lincoln County, to add a chapter regarding motion picture and television permits, and to make minor amendments to the other previously existing chapters.

THE BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, NEVADA DOES ORDAIN:

SECTION 1. Title 8, Chapter 2 of the Lincoln County Code shall read:

TITLE 4

BUSINESS AND LICENSE REGULATIONS

<u>Subject</u>	<u>Chapter</u>
Business Licenses	1
Liquor Control	2
Sexually Oriented Businesses	3
Land Sales	4
Outdoor Festivals	5
Food Establishments; Food Processing; Food Handlers.....	6
Circuses and Tent Shows	7
Work Identification Cards.....	8
Motion Picture and Television Permits.....	9

CHAPTER 1

BUSINESS LICENSES

SECTION:

- 4-01-1: Definitions
- 4-01-2: License Required; Penalties; Exceptions; Other Licenses Required
- 4-01-3: Standard Business License; Application
- 4-01-4: Standard Business License; Fees
- 4-01-5: Special Standard Business License Fees, Conditions, and Waivers for Certain Businesses
- 4-01-6: Payment of Fees; Penalties; Modification by Board
- 4-01-7: Multiple Businesses Licensed As One
- 4-01-8: Standard Business License; Issuance; Approval by Board
- 4-01-9: Conditions of License
- 4-01-10: License Renewal; When New Applications Required
- 4-01-11: Suspension and Revocation of Standard Business License; Grounds; Procedure
- 4-01-12: Investigation; Enforcement
- 4-01-13: Waiver of Board

4-01-01: DEFINITIONS:

For the purposes of this chapter, unless the context otherwise requires, the following definitions apply:

BOARD: The board of county commissioners for Lincoln County, except where another board, such as the Lincoln County liquor board, is granted exclusive jurisdiction whereby "board" means that body possessing exclusive jurisdiction.

BUSINESS: Any person, partnership, association, firm, entity, or corporation engaging in enterprise.

COMMERCIAL MOBILE RADIO SERVICE: Any commercial mobile radio service as defined in 47 CFR §20.3.

COUNTY: Lincoln County, a political subdivision of the state of Nevada.

DEPARTMENT: The Lincoln County business license department.

ENTERPRISE: Any trade, calling, service, profession, or business venture.

GARAGE SALE: All sales opened to the public for disposing personal property, including all sales entitled "garage sale," "lawn sale," "attic sale," "rummage sale," or "yard sale" which do not extend beyond seventy two (72) hours in duration.

GAS PROVIDER: Any business or special unit of local government that provides gas service to the public, whether or not the public service commission of Nevada regulates them, including, but not limited to, natural gas providers. Gas service does include propane gas providers, or distribution systems.

NONPROFIT SERVICE ORGANIZATION: Any organization, which is registered as a nonprofit organization by the state of Nevada and which operates on an occasional and irregular basis.

PUBLIC UTILITIES: All telecommunications companies, electric energy providers, gas providers, and commercial mobile radio services.

TELECOMMUNICATIONS COMPANIES: Any business or local government that provides telecommunications services who holds a certificate of public convenience and necessity issued by the public service commission of the state of Nevada and derives intrastate revenue from the provision of that service to retail customers.

4-01-02: LICENSE REQUIRED; PENALTIES; EXCEPTIONS; OTHER LICENSES REQUIRED:

- A. License Required: It is unlawful for any business to engage in any enterprise in Lincoln County without first applying for and obtaining a license or permit as set forth in this chapter.
- B. Violation; Penalty: Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code.
- C. Exceptions: The provisions contained in this chapter do not apply to:
 - 1. Any business which is wholly located within the limits of any incorporated city or incorporated town within the county;
 - 2. Any private individual(s) who has no more than five (5) garage sales per year;
 - 3. Any nonprofit service organization; or Lincoln County School District sponsored event or operation
 - 4. Anyone providing childcare in private homes to six or fewer children.
 - 5. Anyone telecommuting from home by employees of businesses located elsewhere.
 - 6. Any informal, casual, or seasonal work performed by minors acting as individuals, including, without limitation, babysitting, and lawn mowing.
 - 7. Any non retail agricultural business, operating from a ranch or farm including, without limitation, the husbandry of domesticated crops or livestock.

8. Any business that is specifically regulated under a separate chapter of this title and that chapter clearly exempts the business from the provisions of this chapter.
- D. Other Licenses Required: Any business applying for a license under this chapter, that is required by federal, state, county or city regulation to hold a separate and independent license shall produce, exhibit, or otherwise prove to the department that such license has been issued including health department licenses for food vendors. Upon such proof, submission, and payment of the appropriate application and licensing fee, the department may issue a temporary license pending board action.

4-01-03: STANDARD BUSINESS LICENSE; APPLICATION:

- A. Standard Business License: A standard business license may be issued to any business or enterprise wishing to conduct an enterprise within the county.
- B. Application:
1. All applications requests for a license under this chapter shall be made by affidavit verified application to the department.
 2. All applications shall be made on forms provided by the department.
 3. Each business or enterprise must submit its own application.
 4. Each applicant shall include the following information in the application:
 - a. The nature of the enterprise;
 - b. The address of the business;
 - c. The date on which the business will open;
 - d. Sufficient information to calculate fees under this chapter; and
 - e. The full name of the applicant;
 - (1) If a partnership, the full legal name of each partner;
 - (2) If a corporation, the state of incorporation and the full name of the resident agent or operating officer within the county for the corporation; and
 - (3) If the business operates under a fictitious name, such name.

4-01-04: STANDARD BUSINESS LICENSE-HUCKSTER LICENSE; FEES:

Any business applying for or operating under a standard business license must pay the following fees, unless otherwise enumerated in this chapter:

1. Application Fee: A fee of forty (\$40.00) shall accompany the application for processing the license, including inspection and investigation costs.
 - a. This fee is nonrefundable.
 - b. If the applicant has met all the requirements of this chapter and his application is approved, this application fee shall be applied toward the payment of the basic license fee for the first year of the business.

e- Basic License Fee: Each business licensee shall pay a basic license fee of \$40.00 annually.

2. Any business, traveling vendor, sales operation, food vendor, huckster, salesman sales group, door to door sales group or individual, and any other business not based and located in Lincoln County shall obtain a HUCKSTER BUSINESS PERMIT for each occasion and event at which they wish to conduct business in the County. Each such business shall apply on the forms required in 4-01-03 of this Chapter and upon payment of a fee of \$20.00 shall be issued a Huckster Business Permit valid for up to 72 hours. Said permit shall list the locations where the business is to be conducted and is valid only for that location or locations

4-01-05: SPECIAL STANDARD BUSINESS LICENSE FEES, CONDITIONS, AND WAIVERS FOR CERTAIN BUSINESSES:

The businesses applying under this chapter and listed herein shall be required to comply with the following:

- A. Alcoholic Liquor Licenses: The board shall regulate Alcoholic Liquor Licenses pursuant to Chapter 2 of this Title (4-2).
- B. Sexually Oriented Businesses: The board shall regulate Sexually Oriented Businesses and related licenses pursuant to Chapter 3 of this Title (4-3).
- C. Land Sales: The board shall regulate Land Sales and related licenses pursuant to Chapter 4 of this Title (4-4).
- D. Outdoor Festivals and Motion Pictures: The board shall regulate Outdoor Festivals and Motion Pictures and related licenses pursuant to Chapter 5 of this Title (4-5).
- E. Food Establishments; Food Processing; Food Handlers: The board shall regulate Food Establishments; Food Processing; Food Handlers and related licenses pursuant to Chapter 6 of this Title (4-6).
- F. Circuses and Tent Shows: The board shall regulate Circuses, Tent Shows, and related licenses pursuant to Chapter 7 of this Title (4-7).
- G. Work Identification Cards: The board shall regulate Work Identification Cards and related licenses pursuant to Chapter 8 of this Title (4-8).
 3. Existing Franchise Agreements Not Altered: This subsection C does not alter the terms of any existing franchise agreement between Lincoln County and a company providing public utility services within the boundaries of Lincoln County.

4-01-06: PAYMENT OF FEES; PENALTIES; MODIFICATION BY BOARD:

- A. Standard Fees: Unless otherwise provided in this Chapter, business license fees shall be payable yearly on July 1, County will seek to notify for renewals but each business license holder is responsible to renew the license annually without notice or demand by the County.
- B. Penalties for Late Payment: All business license fees due under this Chapter shall be considered delinquent if not paid in full on or before the fifteenth day following the due date. A penalty of fifteen percent (15%) of the payment shall be added to all payments received by the Department after the fees have become delinquent.
- C. Modified Fees: The Board may modify any fees set forth in Section 4-01-04 or 4-01-05 of this Chapter or incorporated herein by resolution.

4-01-07: MULTIPLE BUSINESSES LICENSED AS ONE:

- A. Any business licensee who is issued a standard business license may have endorsed on the license more than one enterprise under the following conditions:
 - 1. All enterprises endorsed on the license must be operated:
 - a. In the same building or physical location and address; and
 - b. Under the same business name.
 - 2. All enterprises must be owned or operated by the business licensee.
- B. If the business licensee complies with the conditions set forth herein, the Board shall issue one license endorsing each specific enterprise engaged in by the business licensee.
- C. Any business licensee issued a license for multiple enterprises shall pay only one fee. This Section does not affect liquor, gaming, or any other license fees required by the County.

4-01-08: STANDARD BUSINESS LICENSE; ISSUANCE; APPROVAL BY BOARD:

- A. Temporary License: The Department may issue a temporary license to any business licensee who has complied with the provisions of this Chapter. This license shall be effective for thirty (30) days pending Board approval of the standard business license.
- B. Board Approval: The Department shall present to the Board for approval all applications for the standard business license within thirty (30) days of the application. Upon presentation to the Board, the Board shall approve, conditionally approve, or disapprove the application.
- C. Issuance of Standard Business License:
 - 1. Upon approval of applications for a standard business license, the Board shall issue a license for the business. Each license shall state:

- a. The names and addresses of all business licensees connected with the enterprise;
 - b. The address or location of the business;
 - c. Any restrictions or limitations imposed by the Board as a condition of approval;
 - d. The date the license was issued; and
 - e. The date the license will expire.
2. All standard business licenses shall be issued on a yearly basis unless otherwise expressed by the Board.

4-01-9: CONDITIONS OF LICENSE:

In addition to any other conditions imposed by the Board, business licensees must comply with the following conditions:

- A. License Not Transferable: Any standard business license issued under this Chapter shall not be transferred without the consent of the Board.
- B. Posting of License: Any standard business license issued under this Chapter shall be posted by the licensee in a conspicuous place within the business during the entire term for which the license was issued.
- C. Sign Required: Each business licensee shall post a sign and address on the outside of the business that is visible from the roadway.

4-01-10: LICENSE RENEWAL; WHEN NEW APPLICATIONS REQUIRED:

- A. Not less than twenty (20) but not more than thirty (30) days before the expiration date of any license, the business licensee shall apply to the Department, on forms provided, for a renewal. If any written complaint regarding the method of operation of the enterprise has been received during the immediately preceding license period, including, but not limited to, a notice from the County Assessor's office that the licensee is sixty (60) days delinquent in payment of any personal property tax owed by the licensee, the Department shall investigate the complaints and transmit the renewal application along with the information the Department's investigation reveals to the Board. The Board shall, at its next regular meeting, grant the renewal, renew with conditions, or deny it. If no such complaints have been received, the Department may issue the renewed license without Board approval. In determining whether to grant a renewal, the Board may conduct hearings, summon witnesses, interview the licensee, interview any complainant, require additional investigation by the Department, or do any and all other acts which may be necessary or appropriate to the Board's determination.
- B. Failure of any business licensee to apply for a renewal under this Chapter shall result in an automatic revocation of the license on the expiration date of the license. A licensee whose license has been revoked, and who wishes to continue

in business, shall file a new application and any existing balances and penalties due the County shall be paid prior to Board action on the application.

- C. A business licensee shall file with the Department, on forms provided, an amended application and affidavit for a license when a change of any matter stated in the business licensee's former application has occurred. No additional fee shall be charged for filing an amended application under these provisions.

4-01-11: SUSPENSION AND REVOCATION OF STANDARD BUSINESS LICENSE; GROUNDS; PROCEDURE:

- A. Grounds for Suspension or Revocation: Any standard business license issued under this Chapter may be suspended, or revoked for good cause. Good cause shall include, but is not limited to, the following:
1. Failure to pay business license fees within thirty (30) days of their due date;
 2. Failure to update the business license under the provisions of this Chapter;
 3. Failure to renew the business license under the provisions of this Chapter;
 4. Failure to maintain other licenses required by Federal, State, County or city law which are necessary to conduct the enterprise endorsed on the license;
 5. Failure to keep the enterprise free of unsanitary conditions, excessive noise, disturbances, and other conditions on or about the premises which cause, or tend to cause, a public nuisance or which injuriously affect the public health, safety or welfare;
 6. Any act in the operation of the business that is unlawful or prohibited by Federal, State, County or city law;
 7. Any fraudulent practices or misrepresentations in the operation of the business;
 8. Any concealment or misrepresentation in procuring a license; and
 9. Becoming more than sixty (60) days delinquent in the payment of any personal property tax owed by the business licensee.
- B. Suspension of Standard Business License: If a business licensee violates any of the provisions contained in subsections A1 through A9 of this Section, the Department may suspend the license, pending Board action on revocation, under the following conditions:
1. The Department shall notify the business licensee of the violation. The notice shall contain:
 - a. The name and address of the business licensee;
 - b. The violation which has occurred;
 - c. That the business licensee has five (5) days, excluding weekends and holidays, from the receipt of the notice to remedy the violation; and
 - d. That if the business licensee fails to remedy the violation the business license will be suspended.

2. If the business licensee fails to remedy the violation, the Department shall send a second notice which shall contain:
 - a. The name and address of the business licensee;
 - b. The violation which has occurred;
 - c. The date the suspension will be in effect; and
 - d. A notice of revocation and hearing as provided in subsection C1 of this Section.
 3. The date the business licensee is deemed to receive the notice shall be determined as follows:
 - a. If the Department serves the business licensee, the date of service;
 - b. If the Department posts the notice at the place of business, the date it is posted; and
 - c. If the Department sends the notice by certified mail, return receipt requested, the date of delivery as evidenced by the return receipt.
- C. Revocation of the Standard Business License: Unless otherwise specified in this Chapter, the Board may revoke any business license issued under this Chapter, under the following conditions:
1. Notice of Revocation and Hearing: The Board shall serve upon the business licensee a notice of revocation and hearing. This notice shall be served upon the business licensee at least forty eight (48) hours prior to the time specified for hearing. The notice shall be deemed received in accord with subsection B3 of this Section. The notice shall include:
 - a. The name and address of the business licensee;
 - b. The cause(s) of the revocation;
 - c. The date and time of the revocation hearing; and
 - d. That the business licensee may submit evidence in opposition to the revocation.
 2. Hearing of Revocation: In order to revoke a business license under this Chapter, the Board shall conduct a hearing to determine whether to revoke the license. The Board shall permit any interested party, including the business licensee, to testify or otherwise submit evidence in favor of or opposition to the revocation. The Board shall consider all the evidence presented and cause to have entered in the minutes its findings, stating specifically any causes for revocation found by the Board. The Board shall then enter its order in the minutes.
 3. Notice of Revocation: If the Board revokes the license, the business licensee shall be served notice of revocation following the hearing. The revocation shall be effective upon receipt of the notice, as specified in subsection B3 of this Section.

4-01-12: INVESTIGATION; ENFORCEMENT:

- A. Investigation: The Department may notify the County Sheriff who may investigate possible violations of this Chapter, and, if deemed appropriate, may issue a citation or initiate a complaint to the District Attorney's office.
- B. Any exhibited or published sign or advertisement indicating that any business is engaged in enterprise shall be prima facie evidence that such business is engaged in enterprise for which a license is required.
- C. Enforcement:
 - 1. Violators of the provisions of this Chapter may be charged by complaint and summons or by citation in the Justice Court with applicable jurisdiction;
 - 2. A show cause hearing may be held before the Board for a determination of revocation of the business license; and/or
 - 3. The County may initiate a civil action, as provided by law, including a civil injunction and the recovery of money damages.

4-01-13: WAIVER OF BOARD:

Upon application to the Board, a business licensee may request that the Board waive any fee or requirement imposed on a business by this Chapter. If the Board finds good cause for the business licensee's request and the waiver would not impair the public health, safety, or welfare, the Board may waive any provision of this Chapter.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed hereby, but only to the extent of such conflict.

SECTION 3. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, the invalidity, unenforceability of such section, paragraph, clause, or provision shall not affect any remaining provisions of this Ordinance.

UPON ADOPTION, the County Clerk of Lincoln County is directed hereby to have this Ordinance published, by title only, together with an adequate summary including any amendments, once in a newspaper published in the County, if any, otherwise in a newspaper published in the County, and having a general circulation in the County. The County Clerk is directed to post this Ordinance in full at the Lincoln County Courthouse. This Ordinance becomes effective twenty (20) days after its publication.

PASSED AND ADOPTED this _____ day of _____, 2009 by the following vote of the County Board of Commissioners:

AYES: _____

NAYS : _____

ABSENT : _____

APPROVED this _____ day of _____, 2009.
LINCOLN COUNTY, NEVADA

By: _____
PAUL MATHEWS, Chairperson

ATTEST:

Lisa Lloyd, County Clerk

AFFIDAVIT OF POSTING

STATE OF NEVADA)
) ss.
COUNTY OF LINCOLN)

Lisa Lloyd, being first duly sworn, deposes and says:

1. That she is and was at the time of posting hereafter mentioned,
2. That she is a citizen of the United States, over the age of twenty-one years;
3. That she is the duly appointed, qualified County Clerk of Lincoln County, State of Nevada;
4. That on the _____ day of _____, 2009, Affiant posted on a public bulletin board in the Lincoln County Courthouse, a full, true and correct copy of Ordinance No. _____ entitled:

LINCOLN COUNTY ORDINANCE NO._____

SUMMARY—THIS ORDINANCE AMENDS TITLE 4 OF THE LINCOLN COUNTY CODE BY ADDING TWO CHAPTERS RELATING TO BUSINESS AND LICENSE REGULATION AND AMENDING THE OTHER SEVEN CHAPTERS PREVIOUSLY EXISTING.

TITLE—AN ORDINANCE AMENDING TITLE 4 OF THE LINCOLN COUNTY CODE RELATING TO BUSINESS AND LICENSE REGULATION.

Lisa Lloyd, County Clerk

SIGNED AND SWORN TO (or affirmed)
before me on _____, 2009
by _____.

NOTARY PUBLIC

**PUBLIC NOTICE OF THE FILING OF A LINCOLN COUNTY ORDINANCE
PURSUANT TO N.R.S. 244.100**

NOTICE IS HEREBY GIVEN that Lincoln County Ordinance No. _____, with Summary and Title as follows, was filed with the Lincoln County Clerk on _____, 2009:

SUMMARY—THIS ORDINANCE AMENDS TITLE 4 OF THE LINCOLN COUNTY CODE BY ADDING TWO CHAPTERS RELATING TO BUSINESS AND LICENSE REGULATION AND AMENDING THE OTHER SEVEN CHAPTERS PREVIOUSLY EXISTING.

TITLE—AN ORDINANCE AMENDING TITLE 4 OF THE LINCOLN COUNTY CODE RELATING TO BUSINESS AND LICENSE REGULATION.

NOTICE IS FURTHER GIVEN that copies of the Ordinance are available for public examination and distribution upon request at the office of the Clerk of Lincoln County, Nevada, at the Lincoln County Courthouse in Pioche; that said Ordinance was proposed and read by title on _____, 2009, and that the Lincoln County Board of Commissioners intends to take final action on the adoption of said Ordinance on its regular meeting on the _____ day of _____, 2009 as a regular measure.

IN WITNESS WHEREOF, the Lincoln County Board of Commissioners of Lincoln County, Nevada, has caused this Notice to be given by reference to the Title and Summary of the proposed Ordinance.

DATED this _____ day of _____, 2009.

LINCOLN COUNTY

PAUL MATHEWS, Chairperson

Publication of this notice must be at least ten (10) days before the date set for the adoption of the ordinance.

PUBLISHED: on the _____ day of _____, 2009.

NOTICE OF ORDINANCE APPROVAL

NOTICE IS HEREBY GIVEN that on the _____ day of _____, 2009, 2009, the Lincoln County Board of Commissioners, in Lincoln County, Nevada, approved the adoption of an Ordinance for Lincoln County, Nevada, with the Summary and Title as follows:

SUMMARY—THIS ORDINANCE AMENDS TITLE 4 OF THE LINCOLN COUNTY CODE BY ADDING TWO CHAPTERS RELATING TO BUSINESS AND LICENSE REGULATION AND AMENDING THE OTHER SEVEN CHAPTERS PREVIOUSLY EXISTING.

TITLE—AN ORDINANCE AMENDING TITLE 4 OF THE LINCOLN COUNTY CODE RELATING TO BUSINESS AND LICENSE REGULATION.

NOTICE IS FURTHER GIVEN that, pursuant to N.R.S. 244.100, notice of the adoption of the above-entitled Ordinance is being published by title, together with an adequate summary, including any amendments, once a week for a period of 2 weeks before it goes into effect in the Lincoln County Record. Typewritten copies of the ordinance in its entirety are available for inspection at the office of the county clerk and posted in full in the Lincoln County Courthouse. The Ordinance shall become effective twenty (20) days after its publication.

DATED this _____ day of _____, 2009.

LINCOLN COUNTY

PAUL MATHEWS, CHAIRMAN

PUBLISHED: on the _____ day of _____, 2009.