BILL NO. 2007-4

ORDINANCE NO. 5891

AN ORDINANCE TO CLARIFY AND STANDARDIZE THE PROVISIONS THAT GOVERN THE EXPIRATION AND TERMINATION OF ZONING-RELATED APPLICATIONS AND APPROVALS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: M. Margo Wheeler, Director of Planning and Development

Summary: Clarifies and standardizes the provisions that govern the expiration and termination of zoning-related applications and approvals.

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

SECTION 1: Title 19, Chapter 18, Section 10, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new Subsection, designated as Subsection (G), reading as follows:

(G) Treatment of Certain Tabled Applications. Any application under this Chapter that requires a public hearing and that is tabled at the request of an applicant shall expire six months after the last announced public hearing date, unless:

(1) Within that period of time, the applicant has requested that the item be scheduled again for hearing; or

(2) The motion to table the application specified otherwise.

After an application has expired in accordance with this Subsection (G), the applicant must submit a new application.

SECTION 2: Title 19, Chapter 18, Section 40, Subsection (O), of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

(O) Rezoning Procedures.

(1) Resolution of Intent. Before the City Council adopts an ordinance to effectuate a rezoning, the Council may adopt a Resolution of Intent to reflect the Council's approval of the rezoning. Such a Resolution of Intent is binding upon the City Council in accordance with its terms[.] and shall have a time limit not to exceed two years.

(2) Finalizing Rezoning by Ordinance. The final step in the rezoning process, whether or

not rezoning approval is by means of a Resolution of Intent, is the adoption of a rezoning ordinance in which the zoning classification of one or more parcels is formalized.

(3) Changes. No substantial change may be made to a development or to the rezoning approval which authorized that development without the approval of the City Council. This approval requirement applies to the rezoned parcel both before and after the adoption of an ordinance rezoning that parcel.

(4) Termination of Rezoning [Approval Without Time Limit.] Approvals Subject to a Resolution of Intent.

(a) Approvals Not Subject to Time Limit. If development does not occur in a timely manner or if conditions in the area change subsequent to the original approval of a rezoning that is not subject to a time limit, the City Council may schedule a hearing to reconsider the Resolution of Intent. At such time, the Council may rescind the Resolution of Intent or may change the conditions of approval. In addition, if such a rezoning approval no longer conforms to the use and density classification of the General Plan, the City may notify the property owner that the rezoning must be exercised within one year. [If, within that period, the zoning approval is not exercised by means of the recordation of a final subdivision map or by the commencement of actual construction, the approval terminates.] Thereafter, the approval shall be treated as an approval subject to a time limit in accordance with Subparagraph (b) below.

(b) Approvals Subject to Time Limit. Except as otherwise provided in Paragraph (5) below, a rezoning approval which is not exercised within the time limit established for or by the Resolution of Intent shall be void.

(c) Methods for Exercising Rezoning Approvals. For purposes of this Paragraph (4), a rezoning approval is exercised as follows:

(i) For applications that require the creation of a residential subdivision, upon the recordation of a final subdivision map;

(ii) For applications that require the construction of a one or more new structures, but do not require the creation of a residential subdivision map, upon the issuance of a building permit for the new construction;

(iii) For all other applications, upon the issuance of a certificate of occupancy or approval of a final inspection, whichever is applicable.

(5) Extension of Time--General Requirements. If the approval of a Resolution of Intent is subject to a time limit, the approval expires at the end of that time limit unless the City Council extends the approval period. Extension of an approval period[, or reinstatement and extension,] may be granted only if:

(a) Application therefor is made [no later than six months after the approval has expired;] prior to the expiration of the time limit;

(b) The applicant demonstrates good cause; and

(c) The applicant conforms to the additional requirements set forth in [Subsection] Paragraph (6) below.

(6) Extensions of Time-Additional Requirements. If a time-limited zoning approval that is sought to be extended [(or reinstated and extended)] continues to conform to the use and density classifications of the General Plan, the applicant must demonstrate that the rezoning remains consistent with the surrounding area and the pattern of development in the area. If the rezoning sought to be extended [(or reinstated and extended)] no longer conforms to the use and density classifications of the General Plan, the extension of time, if granted, shall be limited to a one-year period. If, within that period, the zoning approval is not exercised by means of the recordation of a final subdivision map or by the commencement of actual construction, the approval terminates.

SECTION 3: Title 19, Chapter 18, Section 50, Subsection (J), of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

(J) Expiration. Except as otherwise specified in connection with its approval, a Site Development Plan which is not exercised within two years after the date of approval shall be void, unless an extension of time is granted[.] 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 (or such other time period as was specified in the approval). For purposes of this [Section] Subsection (J), a Site Development Plan is exercised upon the issuance of a building permit for the principal structure on the site.

SECTION 4: 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.

[(2)] (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.

[(3) For any Special Use Permit approved before January 1, 2000, which expires before an extension is granted, the City Council may reinstate the approval within the six-month period following the expiration date and grant an extension of time if the Council is satisfied that there has not been a material change of circumstances such that the Special Use Permit is no longer warranted.]

[(4)] (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; 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.

[(5) For purposes of this Subsection (P), a Special Use Permit is exercised upon 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.]

SECTION 5: Title 19, Chapter 18, Section 70, Subsection (O), of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

(O) Termination.

(1) Failure to Exercise.

(a) A Variance which will require the construction of a new building and which is not exercised within two years after approval shall be void, unless the applicant obtains an extension of time upon a showing of good cause. Application for an extension shall be made to the Planning Commission or City Council, whichever body took final action to approve the Variance. 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 Variance is exercised upon the issuance of a building permit for the new construction.

[(2)] (b) A Variance which will not require the construction of a new building and which is not exercised within one year after approval shall be void, unless the applicant obtains an extension of time upon a showing of good cause. Application for an extension shall be made to the Planning Commission or City Council, whichever body took final action to approve the Variance. 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 Variance 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.

[(3) For any Variance approved before January 1, 2000, which expires before an extension is granted, the Planning Commission or City Council, as the case may be, may reinstate the approval within the six-month period following the expiration date and grant an extension of time if the Commission or Council is satisfied that there has not been a material change of circumstances such that the Variance is no longer warranted.]

(2) Cessation of Use. A Variance to allow a use that is not permitted in a particular zone shall be void without further action if the use approved by the Variance ceases for a period of twelve months or more.

[(5) For purposes of this Section (O), a Variance is exercised upon 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.]

SECTION 6: For purposes of Section 2.100(3) of the City Charter, LVMC 19.18.010, 19.18.040, 19.18.050, 19.18.060, and 19.18.070 are deemed to be subchapters rather than sections.

SECTION 7: 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 8: 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 7TH day of February, 2007.

APPROVED:

By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

~~BARBARA JO RONEMUS, City Clerk~~ By: Beverly K. Bridges, CMC
Acting City Clerk

APPROVED AS TO FORM:

Val Steed 12-20-06
Date

The above and foregoing ordinance was first proposed and read by title to the City Council on the 3rd day of January, 2007, and referred to a committee for recommendation; thereafter the committee reported favorably on said ordinance on the 7th day of February, 2007, which as a regular meeting of said Council; that at said regular meeting, the proposed ordinance was read by title to the City Council as first introduced and adopted by the following vote:

VOTING "AYE":	Mayor Goodman and Councilmembers Reese, Brown, Weekly, Wolfson, Tarkanian and Ross
VOTING "NAY":	None
EXCUSED:	None
ABSTAINED:	None

APPROVED:

OSCAR B. GOODMAN, Mayor

ATTEST:

BEVERLY K. BRIDGES, CMC Acting City Clerk

AFFP DISTRICT COURT
Clark County, Nevada

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

Donna Stark, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

LV CITY CLERK 2296311LV 1405430

was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 01/26/2007 to 01/26/2007, on the following days:

01/26/2007

RECEIVED
CITY CLERK
2007 FEB -5 P 2:15

BILL NO. 2007-4

AN ORDINANCE TO CLARIFY AND STANDARDIZE THE PROVISIONS THAT GOVERN THE EXPIRATION AND TERMINATION OF ZONING-RELATED APPLICATIONS AND APPROVALS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: M. Marco Wheeler, Director of Planning and Development

Summary: Clarifies and standardizes the provisions that govern the expiration and termination of zoning-related applications and approvals.

At the City Council meeting of JANUARY 3, 2007 BILL NO. 2007-4 WAS READ BY TITLE AND REFERRED TO A RECOMMENDING COMMITTEE.

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 1ST FLOOR, 400 STEWART AVENUE, LAS VEGAS, NEVADA.

PUB: January 26, 2007
LV Review-Journal

Signed: Donna Stark

SUBSCRIBED AND SWORN BEFORE ME THIS, THE

31 day of January, 2007.

Mary B Sheffield
Notary Public

MARY B. SHEFFIELD
Notary Public State of Nevada
No. 99-53968-1
My appt. exp. Mar. 8, 2007

RECEIVED
CITY CLERK

2007 FEB 20 A 11: 51

AFFP DISTRICT COURT
Clark County, Nevada

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

Stacey M Lewis, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

LV CITY CLERK 2296311LV 1504400

was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 02/10/2007 to 02/10/2007, on the following days:

02/10/2007

BILL NO. 2007-4
ORDINANCE NO. 5891

AN ORDINANCE TO CLARIFY AND STANDARDIZE THE PROVISIONS THAT GOVERN THE EXPIRATION AND TERMINATION OF ZONING-RELATED APPLICATIONS AND APPROVALS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: M. Margo Wheeler, Director of Planning and Development
Summary: Clarifies and standardizes the provisions that govern the expiration and termination of zoning-related applications and approvals.

The above and foregoing ordinance was first proposed and read by title to the City Council on the 3rd day of January 2007 and referred to a committee for recommendation; thereafter the committee reported favorably on said ordinance on the 7th day of February 2007, which was a regular meeting of said City Council; and that at said regular meeting the proposed ordinance was read by title to the City Council as first introduced and was adopted by the following vote:

VOTING "AYE": Mayor Goodman and Councilmembers Reese, Brown, Weekly, Wolfson, Tarkanian, and Ross
VOTING "NAY": NONE

EXCUSED: NONE

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 1ST FLOOR, 400 STEWART AVENUE, LAS VEGAS, NEVADA.

PUB: February 10, 2007
LV Review-Journal

JANET EILEEN STANEK
Notary Public State of Nevada
No. 06-107924-1
My appt. exp. July 28, 2010

Signed: Stacey M. Lewis

SUBSCRIBED AND SWORN BEFORE ME THIS, THE
15th day of February, 2007.

Janet E Stanek
Notary Public