

ORDINANCE 1980 - 1 of the NEVADA TAHOE REGIONAL PLANNING AGENCY

AN ORDINANCE to carry out the provisions of Chapter 287 Statutes of Nevada 1979, concerning control of expansion of gaming in the Lake Tahoe region, defining terms, providing for the establishment of base data, project review, informal review, and appeals, and providing other matters properly related thereto.

AUTHORITY

This ordinance is adopted pursuant to NRS 278.812, subsection 2, which provides: "The governing body shall adopt necessary ordinances, rules, regulations and policies for the determination of environmental impact and effect, for the approval or disapproval of individual applications and for otherwise implementing the provisions of NRS 278.780 to 278.828, inclusive. Such ordinances, rules, regulations and policies shall include but need not be limited to criteria for determining the effect of each proposal upon the availability of services, public facilities and natural resources, and the capacity of the environment to tolerate additional development."

ARTICLE I – DEFINITIONS

- 1.1 "Agency" means the Nevada Tahoe Regional Planning Agency.
- 1.2 "Permit-Issuing Authority" is the building official of the local government having jurisdiction to authorize performance of a specified building activity.
- 1.3 "Gaming" has the meaning ascribed to it in NRS 463.010.
- 1.4 "Restricted Gaming License" has the meaning ascribed to it in Section 4 of Chapter 287 Statutes of Nevada 1979.
- 1.5 "Nonrestricted Gaming License" means a gaming license which is not a restricted license.
- 1.6 "Licensee" has the meaning ascribed to it in NRS 463.0119.
- 1.7 "Person" has the meaning ascribed to that term in NRS 463.0124.
- 1.8 "Licensed gaming establishment" has the meaning ascribed to it in NRS 463.0118.
- 1.9 "Structure housing gaming" means the entire area within the external walls of a building or buildings joined together in some definite manner and in which gaming under a nonrestricted license is conducted in any part thereof. It includes any structures that existed or were approved as of January 1, 1979. It shall not include appurtenances such as vents, chimneys, elevator housings, cooling and heating units and other mechanical equipment and shall not include appurtenances used to shelter said mechanical equipment or vertical shaft openings in the roof.
- 1.10 "External wall" is any structural wall exposed to the elements.
- 1.11 "Areas Open to Public Use" (public use areas) means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.
- 1.12 "Areas devoted to private use of guests" (private use areas) means those portions of a structure housing gaming which are open to public invitees but reserved for their private use. It includes only hotel rooms and hallways to serve hotel room areas, and any parking areas within a structure housing gaming. A hallway is deemed to serve hotel room areas if more than fifty percent (50%) of the areas on each side of said hallway are hotel rooms.
- 1.13 "External Modification" means any physical change which affects the outside structural aspects of an external wall or roof of a structure housing gaming.
- 1.14 A "Permit" is an official document or certificate issued by the permit-issuing authority to authorize performance of a specified building activity. For the purpose of this ordinance permits for plumbing, heating, air conditioning, and electrical facilities and maintenance shall not be deemed to be "permits".
- 1.15 "Base Data Findings" are those findings made by the agency pursuant to Section 2.4 of this ordinance.
- 1.16 "Structure Description" means a drawing or drawings and necessary written information which describes a structure housing gaming as it is actually built and existing as of specified date and which provides the information required by this ordinance. Structure descriptions may be specially prepared to meet the provisions of this ordinance or may consist of all or part of plans or information already possessed by the owner or licensee. Reasonable accuracy is required.
- 1.17 "Approved" means approved by either affirmative action or default by the agency or the Tahoe Regional Planning Agency.

ARTICLE 2 - ESTABLISHMENT OF BASE DATA

- 2.1 In order to officially establish the base data required to implement and enforce Chapter 287 Statutes of Nevada 1979, it is necessary that the information required in this Article be collected and approved by the agency.
- 2.2 Within sixty (60) days of the effective date of this ordinance the licensee or owner of an existing structure housing gaming which existed or was approved as of January 1, 1979 shall provide four (4) copies of a structure description containing sufficient information to allow the agency to determine the following as to said structure:
1. The location of its external walls;
 2. its total cubic volume;
 3. Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979; and
 4. The amount of surface area of land under said structure.
- The structure description shall contain specific designations of all areas within the external walls as either public use or private use areas.
- 2.3 If a structure housing gaming was approved before January 1, 1979 but not constructed by the effective date of this ordinance, the owner shall provide the agency a structure description as required by section 2.2 which describes said structure as it is then approved within sixty (60) days of the effective date of this ordinance. Thereafter, within thirty (30) days of the issuance by the permit-issuing authority of a certificate of occupancy the owner or licensee shall provide the agency with a structure description describing the structure as it is then actually constructed.
- 2.4 The agency or its representatives or agents or the representatives or agents of the permit-issuing authority shall have the right to enter any structure housing gaming in order to verify or correct information required by section 2.2 or in order to collect said information if it is not provided as required herein.
- 2.5 Within ninety (90) days of the effective date of this ordinance, the agency shall hold a public hearing to make base data findings for each existing structure housing gaming. Notice shall be given as provided in NRS278.802. At the public hearing the licensee and the owner of the structure housing gaming, the public, and representatives or agents of the agency and permit-issuing authority shall have the right to appear and present evidence. The agency and the permit-issuing authority shall provide their staffs' summary and recommendations to the licensee and to the owner of the structure housing gaming at least seven (7) days prior to the holding of such hearing. The staff summaries and recommendations may be mailed but only by registered or certified mail, return receipt requested. Four (4) days shall be added to allow for delivery of such mail. Within ten (10) days after the hearing the agency shall make written findings on the structure description required by section 2.2 as to the base data mentioned in said section. The agency shall notify the license holder, the owner of the structure housing gaming and the permit-issuing authority of its base data findings by providing each with a certified copy of the structure description containing said findings within (10) days after its decision.
- 2.6 Within ninety (90) days of the issuance by the permit-issuing authority of a certificate of occupancy for a structure housing gaming approved before January 1, 1979 but not constructed by the effective date of this ordinance, the agency shall hold a public hearing to make findings as to the base data for said structure as provided in section 2.5.

ARTICLE 3 - MODIFICATIONS OF STRUCTURES HOUSING GAMING

- 3.1 When any modification, remodeling or change in use of a structure housing gaming requires a permit from the permit-issuing authority, an application shall be filed with the agency and with the permit-issuing authority showing proof of filing with the agency. The permit-issuing authority shall review the application for compliance with this ordinance. The application shall be deemed in compliance with this ordinance, if when compared to the base data findings on file with the permit-issuing authority, it will not:
- (a) Enlarge the cubic volume of said structure;
 - (b) Increase the total square footage of area open to or approved for public use on May 4, 1979; and
 - (c) Convert private use area to public use area.
- 3.2 Approval of applications for activities that are not related to gaming within structures housing gaming. The owner of a structure housing gaming may apply for a determination from the NTRPA that a proposed use or activity is not related to gaming. The following uses or activities may be considered for such a determination:

- (a) outdoor recreational uses or activities; or
- (b) temporary or seasonal uses or activities.

The proposed use or activity may be located in any area of a structure housing gaming, including private use areas and public use areas. Any application for such a determination must:

- (a) Specifically identify and describe the proposed use(s) or activity(ies);
- (b) Specifically identify the area of the structure where the use or activity is proposed to be located, and include plans showing any modifications to the structure or other accommodations necessary for the proposed use(s);
- (c) Describe the extent to which, if any, each proposed use or activity will further the attainment of one or more thresholds established under the Tahoe Regional Planning Compact; and
- (d) Demonstrate that proposed uses or activities do not include restaurants, showrooms, convention facilities or other activities proscribed by the Tahoe Regional Planning Compact, Article VI.

The approval of any such application for a determination that proposed use or activity is not related to gaming does not modify the certified base data findings for the structure housing gaming. The governing body must require, as a condition of any determination that a proposed use or activity is not related to gaming, that the applicant must obtain all approvals required by law, including specifically the approval of the Tahoe Regional Planning Agency, pursuant to the Tahoe Regional Planning Compact, Article VI.

- 3.3 Unless the agency or its duly authorized representative notifies the permit-issuing authority that it intends to review the application within three (3) days of its filing with the agency, the permit-issuing authority shall issue the permit to applicants whose applications comply with sections 3.1(a), (b) and (c) and which do not involve external modifications to the structure as determined by an examination of the base data.
- 3.4 When the permit-issuing authority determines that an application for modification, remodeling or change in use does not comply with this ordinance, it shall provide the applicant with its written reasons for the determination.
- 3.5 An application that involves external modifications to a structure housing gaming and also requires a permit from a permit-issuing authority shall be referred to the agency for review in accordance with Article 4.
- 3.6 Until issuance of a certificate for its occupancy the provisions of this Article do not apply to the portions of a structure housing gaming approved before January 1, 1979 but not constructed by the effective date of this ordinance.

ARTICLE 4-REVIEW BY THE AGENCY

- 4.1 An applicant who is denied a permit by the permit-issuing authority because the permit-issuing authority has determined that the application does not comply with section 3.1(a), (b) and (c) may apply to the agency for de novo review within thirty (30) days of the permit-issuing authority's denial.
- 4.2 The agency shall take final action, whether to approve or disapprove denied applications and applications for external modifications within thirty-five (35) days after the application is filed with the agency.
- 4.3 The agency shall take final action whether to approve or disapprove applications which it has notified the permit-issuing authority it will review within thirty-five (35) days after giving the permit-issuing authority such notice.
- 4.4 The agency shall only approve an application if, when compared to the base data findings, the application is in compliance with the requirements of section 3.1.

ARTICLE 5 - CONSTRUCTION OF PUBLIC AREA OUTSIDE OF A STRUCTURE HOUSING GAMING

- 5.1 Any application by the owner or licensee of a structure housing gaming to the permit-issuing authority to construct restaurants, convention facilities, showrooms, bars, maintenance areas, administrative areas and offices, storage areas or any other public use area in the Nevada portion of the Lake Tahoe region outside of any structure housing gaming shall be referred to the agency.
- 5.2 The agency shall review such an application and take final action whether to approve, to require modification or to reject it within thirty-five (35) days after it is referred to the agency.
- 5.3 During any such review the applicant shall have the burden of proving that the construction of such public use area is not to replace public use areas existing or approved for public use as of May 4, 1979 in a structure housing gaming.
- 5.4 The agency shall approve such an application only if it finds that the public use area being constructed in the Nevada portion of the Lake Tahoe region and outside of the structure housing gaming does not replace areas existing or approved for public use as of May 4, 1979 on a structure housing gaming.

ARTICLE 6 - REGULATION OF GAMING ACTIVITIES

- 6.1 The provisions of this ordinance notwithstanding, gaming activities within structures housing gaming are subject to the exclusive jurisdiction and control of the Nevada Gaming Commission and the Nevada State Gaming Control Board.

ARTICLE 7 - INFORMAL REVIEW

- 7.1 Any licensee or owner may apply to the agency for the setting of an informal review of any plans or proposals which might come within the purview of this ordinance for the purpose of obtaining the informal comments and suggestions of the agency.
- 7.2 There shall be no requirement of a permit before the holding of such an informal review.
- 7.3 No official action of the agency shall be taken at such informal review.

ARTICLE 8 - APPEALS

- 8.1 Any person aggrieved by a final decision of the agency under this ordinance may bring a civil action pursuant to NRS 278.816.

After publication as required by NRS 278.814 this ordinance shall be effective June 5, 1980.

ADOPTED May 21, 1980.

AMENDED October 25, 2006 (Section 3.2 added)