

ORDINANCE NO. 1978
(Creating HMC Chapter 4.07, Business Impact Consideration)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, AMENDING TITLE 4 OF THE HENDERSON MUNICIPAL CODE BY ADOPTING A NEW CHAPTER DESIGNATED AS 4.07, ENTITLED BUSINESS IMPACT CONSIDERATION, FOR NEW ORDINANCES AND PROPOSED AMENDMENTS TO ORDINANCES THAT POTENTIALLY IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A BUSINESS; THAT SIGNIFICANTLY OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A BUSINESS; AND OTHER MATTERS RELATING THERETO.

- WHEREAS, Assembly Bill 486 (the "Bill") was passed during the 1999 State Legislative Session and will become effective on January 1, 2000; and
- WHEREAS, the Bill requires that local government entities take into consideration the potential economic impact that proposed ordinances and amendments to existing ordinances are likely to have on businesses; and
- WHEREAS, the Bill also requires public notification, consideration of methods to reduce the impact of proposed ordinances, and preparation of an economic impact statement for all proposed ordinances and amendments to existing ordinances that are likely to have a significant economic impact on businesses; and
- WHEREAS, the following addition of Section 4.07 to the Henderson Municipal Code (the "HMC") sets forth the process by which proposed ordinances and amendments to existing ordinances will effectuate the requirements of the Bill.

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

SECTION 1. Chapter 4.07 of the Henderson Municipal Code is hereby created as follows:

Chapter 4.07. Business Impact Consideration

Sections:

4.07.010 Definitions
4.07.020 Purpose and intent
4.07.030 Appeals/Objection Process

4.07.010 Definitions

For the purpose of this Chapter, the following definitions shall apply:

"Business" means a trade or occupation conducted for profit.

"Local Government" means a political subdivision of this state, including, without limitation to, a city, county, irrigation district, water district or water conservancy district.

"Ordinance" means a rule, regulation or other type of instrument by the adoption of which the governing body of a local government exercises legislative powers, but not including those legislative powers authorized pursuant to chapter 271, 278, 278A or 278B of NRS.

Purpose; Method; Exception; Emergency Adoption.

- A. Purpose. The purpose and intent of this Chapter 4.07 is to insure that all new ordinances or amendments to existing ordinances proposed after January 1, 2000 are reviewed to determine the ordinance's direct and significant economic burden, if any, upon a business, and to provide procedures for potentially minimizing that burden. Before adopting a proposed ordinance, the City shall determine whether the proposed ordinance is likely to:
 - 1. impose a direct and significant economic burden upon a business; or
 - 2. directly restrict the formation, operation or expansion of a business.

- B. Method. If the City determines that a proposed ordinance is likely to do either of the above, the City shall, insofar as practicable, do the following:
 - 1. Consult with trade organizations or owners and officers of businesses that are likely to be affected by the proposed ordinance.
 - 2. Consider methods to reduce the impact of the proposed ordinance on businesses, including, without limitation:
 - a. simplifying the proposed ordinance;
 - b. establishing different standards of compliance for different categories of businesses; and
 - c. modifying a fee or fine set forth in the ordinance so that a particular business is authorized to pay a lower fine or fee.
 - 3. Prepare a business impact statement and make copies of the statement available to any interested person at the time the agenda is published setting the City Council meeting to consider the ordinance.

- C. Exception. The requirements of this ordinance do not apply with respect to an ordinance for which the City does not have the authority to consider less stringent alternatives, including, without limitation, an ordinance that the City is required to adopt pursuant to a federal or state statute or regulation or pursuant to a contract or agreement into which the City has entered.

- D. Emergency Adoption. The City Council may adopt an ordinance without complying with this Chapter 4.07 under the emergency adoption procedure set forth in Section 2.100(3) of the City's Charter. An ordinance adopted under the emergency adoption procedure to which this Chapter applies may remain in effect as an emergency ordinance for not more than six (6) months after the date on which it was adopted.

4.07.030 Appeals/Objection Process

- (A) If a business believes that (1) the City failed to prepare a business impact statement as required pursuant to NRS 237 or (2) the business impact statement prepared by the City did not consider or significantly underestimated the economic effect of the ordinance on the particular business, the business may object to all or a part of the ordinance by filing a written petition with the City Clerk within thirty (30) calendar days following approval of the subject rule by the Council. There are no additional grounds upon which a business may object to an ordinance under this Chapter.

Instructions for filing such a petition are available from the City Clerk at no charge. A copy of the instructions is attached hereto as Exhibit A, consisting of one page.

- (B) Upon receipt of the petition, the City Clerk shall forward a copy to the City Manager, the City Attorney, and the head of the department which generated the

ordinance, who will as soon as practicable jointly consider the merits of the petition and forward a recommendation to the City Council, which may, in its sole discretion, amend the ordinance to which the business objected.

SECTION 2. If any section, subsection, paragraph, clause or provision of this Ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section or subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 3. All ordinances, or parts of ordinances, sections, subsection, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Henderson Home News, a newspaper having general circulation in the City of Henderson, at least one (1) week prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective.

PASSED, ADOPTED, AND APPROVED THIS 18TH DAY OF JANUARY 2000.

James B. Gibson, Mayor

ATTEST:

Monica M. Simmons, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on January 4, 2000, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

Thereafter on January 18, 2000, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held January 18, 2000, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye	James B. Gibson, Mayor
	Councilmembers:
	Jack Clark
	Amanda Cyphers
	Steven D. Kirk
	Those voting nay: None
	Those abstaining: None
	Those absent: Arthur “Andy” Hafen

James B. Gibson, Mayor

ATTEST:

Monica M. Simmons, City Clerk



EXHIBIT A
**BUSINESS IMPACT STATEMENT
PETITION**
Henderson Municipal Code 4.07

Process: If a business believes that (1) the City failed to prepare a business impact statement as required pursuant to NRS 237 or (2) the business impact statement prepared by the City did not consider or significantly underestimated the economic effect of the ordinance on the particular business, the business may object to all or a part of the ordinance by filing a written petition with the City Clerk within thirty (30) calendar days following approval of the subject rule by the Council. There are no additional grounds upon which a business may object to an ordinance under this Chapter.

Upon receipt of the petition, the City Clerk shall forward a copy to the City Manager, the City Attorney, and the head of the department which generated the ordinance, who will as soon as practicable jointly consider the merits of the petition and forward a recommendation to the City Council, which may, in its sole discretion, amend the ordinance to which the business objected.

Ordinance Number: _____

Date Ordinance was passed: _____

What is the reason for the petition?

- 1) Did the City fail to prepare a business impact statement as required pursuant to NRS 237? YES NO
- 2) Did the business impact statement prepared by the City fail to consider or significantly underestimate the economic effect of the ordinance? If yes, please provide specific reasons why, in your opinion, it failed.

PETITIONER	
Name: _____	Phone: () _____
Address: _____	Fax: () _____
_____ Alternate Phone: () _____	
City: _____	State: _____ Zip: _____

Signature of Petitioner

Date