



CITY OF LAS VEGAS DEPARTMENT OF PLANNING

BUSINESS LICENSING	Scope: Business Licensing
Subject: Technician Guidelines for Waiver of Suitability for Principals	Effective: September 26, 2019

Task Objective: To set forth guidelines under which the Department will waive the Personal History (Part II) suitability investigation for principal's requirement.

Responsible Parties: **Business Licensing Administration**

Reference: **LVMC 6.02.010, 6.06.010 and 6.06.130**

Background: The Department reserves the authority to request that waived individuals submit routine background investigation documents, as required by the Code.

6.06.130 - Waiver of suitability approval—permitted when

The Director may waive one or more principals from the requirement of approval for suitability, provided that at least one principal, other than a manager, is to be subject to the requirement of an approval for suitability. Any principal for whom the requirement has been so waived may later be required at the discretion of the Director to apply and be found suitable in order to continue his or her association with the business.

Suitability Requirement Per LVMC:

6.06.010 - Applicability

The provisions of this Chapter apply to those businesses which are found by the City Council to require a high degree of supervision and to more seriously affect the economic, social and moral well-being of the City and its residents. These businesses have been commonly referred to as "privileged" and require specific consideration for approval of a license for the business by an approving authority, and specific consideration for approval of the suitability of the principals by an approving authority.

(B) For purposes of this Chapter, the term "approving authority" means:

- (1) The Director, for licenses and suitability determinations for principals issued under the provisions of Chapters [6.06A](#), [6.06B](#), [6.12](#), [6.14](#), [6.18](#), [6.35](#), [6.47](#), [6.51](#), [6.53](#), [6.69](#), [6.74](#), [6.82](#) and [6.84](#); and
- (2) The City Council, for all other categories.

6.02.010 – Definitions

"Principal" means:

(A) Any person who is an officer, director, trustee, personal representative or general partner or who has an ownership interest in or voting control of the business equal to or greater than ten percent of the entire ownership of voting control of such business. If the ownership interest or voting control is held by a person other than an individual, then each officer, director, trustee, personal representative or general partner of such person is a principal;

(B) Any person who is or will be directly engaged in the administration or supervision of the business; and

(C) Any other person if, in the Director's opinion, the person exercises, or is capable of exercising, significant influence over the business, including, but not limited to, a natural person or corporate entity that provides a source of funding for the initial capitalization and/or the ongoing payment of expenses for the business.

6.06.150 - Waiver of suitability approval—Requirements

The Director, in considering whether to waive a principal, may require:

(A) Personal identification information;

(B) A written request from a managing officer or partner of the business setting forth sufficient information as to the principal's responsibilities and authority with the licensee or proposed licensee; and

(C) A one hundred dollar non-refundable waiver fee, payable in advance, for each principal requesting a waiver

“Day to Day” or “Daily” Operations/Activity means: having control or oversight at the establishment including, but not limited to, one or more of the following:

1. Hiring and firing
2. Disciplinary issues
3. Payroll and financial matters (such as signing checks)
4. Making daily business decisions
5. Managing staffing requirements
6. Providing high-level customer service

General Requirements for Waiving Principals (see exceptions in publicly traded section below):

1. Ownership interest 10% or greater and not involved in day to day activity:
 - a. Must fill out the Waiver form or be identified in a letter from the attorney or on company letterhead with the address and DOB of the individuals
 - b. Must Pay the Waiver fee \$100
2. Ownership interest less than 10% **and not** involved in day to day activity:
 - a. Must fill out the Waiver form or be identified in a letter from the attorney or on company letterhead with the full legal names of the individuals
 - b. No waiver fee is required

Gifted Money:

A relative has gifted money with the following conditions:

1. There is no expectation that the money will be paid back; **and**
2. The gifted money **does** not represent ownership; **and**
3. They will not have a direct operational role in the daily operations of the business; **and**
4. They will need to sign the Gift Form (BL200) regardless of amount or percentage:
 - a. If the amount gifted is \$5000 or Less then there is **NO** suitability or waiver requirement. No waiver fee is required.

If the amount gifted is **greater than \$5,000 and is 30% or more** of the Source of Funding identified in Schedule A on the Financial Questionnaire, then they are subject to the suitability requirements.

If the amount is **greater than \$50,000** then they are subject to the suitability requirements. Gifted funds that do not fall under the above referenced guidelines may need review with senior staff.

Beneficial Ownership through Leases or Contracts:

If there is a provision in the lease/management agreement **where 9% or less of the gross revenue** is paid to the lessor/contract holder then the lessor/contract holder is not subject to the suitability requirements. Provided they are not capable of exercising significant influence over the business and/or are not involved in the day to day operations of the business per LVMC 6.02.010 (B) & (C). (Please Note: Flat fees for base rent are included in the calculation of the 9% or less of the gross revenue.) NO suitability or waiver requirement is necessary.

Guarantors on the lease do not need to come forward for suitability if:

1. They have no involvement in the day-to-day activity.
2. They have no financial or ownership interest in the business.
3. A signed and dated statement from the guarantor confirming the above is required, no waiver fee required.

Lender Suitability (Loans/ Promissory Notes/Conversion Loans):

Must attest in writing to the fact that the money does not represent ownership and they will not have a direct operational role in the daily operations of the business.

1. If the amount loaned is \$5000 or Less, then there is **NO** suitability or waiver requirement.
2. If the amount loaned is **greater than \$5,000 and is 30% or more** of the Source of Funding identified in Schedule A on the Financial Questionnaire, then they are subject to the suitability requirements.
3. If the amount is **greater than \$50,000 and is 10% or more** of the Source of Funding identified in Schedule A on the Financial Questionnaire, then they are subject to the suitability requirements.
4. **Waivers of investors who have a potential for converted ownership shall follow the same guidelines set forth above (#3) as if the potential ownership existed at the time of application.**

Bank Statements with spouses/relatives:

1. Sole proprietorships – If the spouse/relative is on a bank statement and they will not have a direct operational role in the daily operations of the business a waiver request form can be submitted with a \$100 waiver fee.
2. LLC, Corporations or Partnerships – If the initial funding comes from a bank account with another individual's name on it, and they will not have direct operational role in the daily operations of the business or hold any ownership interest, then suitability is not required. Statement indicating no involvement in the day to day operation signed and dated by all individuals listed on the bank statement is required. No fee.

Trusts that are considered a "principal"

Trustee – must come forward for suitability.

Beneficiary – must come forward if they are also the trustee or are involved in the daily operation of the business. Statement indicating no involvement in the day to day operation signed and dated by all beneficiaries (unless under 18) is required. No fee.

Publicly Traded Companies:

Publicly traded companies are under a higher level of oversight by the federal government as a result of the Sarbanes-Oxley Act of 2002. Due to the nature of the selling of shares in a public market it will be difficult for a company to know all stock holders. For this reason the application process for these companies will be limited as follows:

1. Owners of less than 10% are of no concern. No waiver fees required.
2. If 10% or more ownership cannot be confirmed, a written statement from the law firm or company that to the best of their knowledge that no one individual has 10% or more but less than 51% ownership is required. No waiver fees required.
3. Owners between 10% and less than 51% that are identified and have no day to day involvement may request a waiver.
 - a. They either fill out the waiver form or request a waiver in a letter on attorney or on company letterhead. Only the full legal name of the individual(s) being waived is required. No waiver fees required.
4. Owners that have 51% or more will be subject to suitability requirements.
5. Officers and Directors:
 - a. Individuals identified as having no day to day involvement may request a waiver. \$100 waiver fee is required.
 - b. They either fill out the waiver form or request a waiver in a letter on attorney or company letterhead. Only the full legal name of the individual(s) being waived is required. \$100 waiver fee is required.
6. The licensed entity must still have at least one principal subject to the suitability requirement.