HOW TO USE YOUR CODE

This code is organized to make the laws of the city as accessible as possible to city officials, city employees and private citizens. Please take a moment to familiarize yourself with some of the important elements of this code.

NUMBERING SYSTEM

The numbering system is the backbone of a Code of Ordinances; the City of Fernley Municipal Code uses a versatile numbering structure that allows for easy expansion and amendment of this Code. It is based on three tiers, beginning with title, then chapter, and ending with section. Each part is represented in the code section number. For example, Section 2.04.010 is Section .010, in Chapter 2.04 of Title 2.

TITLE

A title is a broad category under which ordinances on a related subject are compiled. This code contains 11 titles, which may be expanded. For example, the first title is Title 1, Administration, which may contain ordinances about the general penalty, code adoption and definitions.

CHAPTER

Chapters deal with more specific subjects, and are often derived from one ordinance. All of the chapters on a related subject are grouped in one title. The chapters are numbered so that new chapters which should logically be placed near certain existing chapters can be added at a later time without renumbering existing material.

SECTION

Each section of the code contains substantive ordinance material. The sections are numbered by "tens" to allow for expansion of the code without renumbering.

INSERTION GUIDE

Each supplement to the new code will be accompanied by an Insertion Guide. This guide will tell the code user the date of the most recent supplement and the last ordinance contained in that supplement. It will then list the pages that must be pulled from the code and the new pages that must be inserted. Following these instructions carefully will assure that the code is kept accurate and current. Removed pages should be kept for future reference.

PAGE NUMBERS

When originally published, this code was numbered with consecutive page numbers. As it is amended, new material may require the insertion of new pages that are numbered with hyphens. (Example: 31, 32, 32-1.) Backs of pages that are blank (in codes that are printed double-sided) are left unnumbered but the number is "reserved" for later use.

TITLES

Administration 1

Boards and Commissions 2

Business License Regulations 3

Revenue and Taxation 4

Public Health and Safety 5

Law Enforcement Regulations 6

Motor Vehicles and Traffic 7

Parks and Recreation 8

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1.01.03 Amendments
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1.02.02 Public Utility Ordinances
1.02.03 Court Proceedings
1.02.04 Severability Clause

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1.03.01 Interpretation; Construction of Words
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1.03.03 Catchlines

CHAPTER 4: GENERAL PENALTY

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1.04.02 Application of Provisions
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1.06.02 Appointment of City Attorney

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1.07.04 Records Management, Creation
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TITLE 1-ADMINISTRATION

CHAPTER 1: OFFICIAL MUNICIPAL CODE

1.01.01: TITLE: Upon the adoption by the Fernley City Council, this Municipal Code is hereby declared to be and shall hereafter constitute the official Municipal Code of the City of Fernley, County of Lyon, State of Nevada, and it is hereby published by authority of the Fernley City Council and shall be kept up to date as provided in Section 1.01.03 of this Chapter under the direction of said Fernley City Council. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this City of Fernley Municipal Code by title in any legal document.

Whenever a reference is made to this Code as the "Fernley Municipal Code" or to any portion thereof or to any ordinance of the City of Fernley, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

1.01.02: ACCEPTANCE: This Municipal Code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this State as the ordinances of the City of Fernley of general and permanent effect, except the excluded ordinances enumerated in Section 1.02.01 of this Title.

1.01.03: AMENDMENTS: Any ordinance amending this Municipal Code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute a sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this Municipal Code. All such amendments or revisions by ordinance shall be immediately forwarded to the City Clerk’s Office, and the said ordinance material shall be prepared for insertion in its proper place in each copy of this Municipal Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the Municipal Code.

1.01.04: CODE ALTERATIONS: It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this Municipal Code in such a manner that the meaning of any phrase or order may be changed or omitted. Except as the same shall have been altered by ordinance amendments, repeals, and additions, the textual contents of the Municipal Code shall contain the text of the 2009 Fernley Municipal Code and the supplements thereto; provided, that nothing shall prevent the correction of purely clerical errors, in spelling, typing, printing or punctuation, title re-numbering and re-classifying of code provisions, and the name changes or composition, without change of legal effect. The City Council authorizes the City Clerk to correct manifest clerical, typographical or grammatical errors in the Municipal Code. (ORD 2012-002)

Any person having in his custody an official copy of this Municipal Code shall make every effort to maintain said Code in an up to date and efficient manner. He shall see to

the immediate insertion of new or replacement pages when such are delivered to him or made available to him through the office of the City Clerk. Said Code books, while in actual possession of officials and other interested persons, shall be and remain the property of the City and shall be returned when directed so to do by order of the Fernley City Council.

1.01.05: EFFECTIVE DATE: This Code shall become effective on the date the ordinance adopting this Code as the "Fernley Municipal Code" shall become effective.

CHAPTER 2: SAVING CLAUSE

1.02.01: REPEAL OF GENERAL ORDINANCES: This Code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the City of Fernley. All general ordinances of the County passed prior to the adoption of this Municipal Code are hereby repealed, except such as are referred to herein as being still in force or are by necessary implication herein reserved from repeal (subject to the saving clause contained in the following section), from which are excluded the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the City; Master Plan Amendments; land use ordinances; Construction Code or Community Development Code Ordinances; zoning map amendments; development agreements; extension of time ordinances for development; business license fees; and all special ordinances.

1.02.02: PUBLIC UTILITY ORDINANCES: No ordinance relating to railroads or railroad crossings with streets and other public ways or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this Municipal Code or by virtue of the preceding section, excepting as this Municipal Code may contain provisions for such matters, in which case this Municipal Code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

1.02.03: COURT PROCEEDINGS: No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

This Section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

Nothing contained in this Chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the City of Fernley herein repealed and the provisions of all general ordinances contained in this Code shall be deemed to be

continuing provisions and not a new enactment of the same provision; nor shall this Chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City of Fernley under any ordinance or provision thereof in force at the time of the adoption of this Municipal Code.

1.02.04: SEVERABILITY CLAUSE: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Municipal Code 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 the Code, or any part thereof. The Fernley City Council 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.

CHAPTER 3: INTERPRETATION; DEFINITIONS

1.03.01: INTERPRETATION; CONSTRUCTION OF WORDS:

(A) GENERALLY: The provisions of this Code and all proceedings under it are to be construed with a view to effect its objects and to promote justice.

(B) GRAMMATICAL INTERPRETATION: The following grammatical rules shall apply in this Code:

(1) Any gender includes the other genders.

(2) The singular number includes the plural and the plural includes the singular.

(3) Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

(4) All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(5) The word "ordinance" contained in the ordinances of the City has been changed in the content of this Municipal Code to "Title", "Chapter", "Section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to the City's ordinances is not meant to amend passage and effective dates of such original ordinances.

The provisions of this Code shall not in any manner affect matters of record which refer to or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the Code, but such reference shall be construed to apply to the corresponding provisions contained within this Code.

(C) PROHIBITED ACTS: Whenever, in this Code, any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

(D) REPEALERS: The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

(E) ACTS BY PRINCIPALS AND AGENTS: When an act is required by an ordinance or resolution, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

1.03.02: DEFINITIONS, GENERAL: The following words and phrases, whenever used

in this Code, shall be construed as defined in this Section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words and phrases:

AGENT: A person acting on behalf of another with authority conferred either express or implied to do so.

CITY: The City of Fernley or the area within the limits of the City and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provisions.

CODE: The Municipal Code of the City of Fernley and amendments thereto.

COUNCIL: The Fernley City Council.

COUNCILMEMBER or ALL ITS MEMBERS: The total number of Councilmembers provided by the general laws of the State of Nevada.

COUNTY: The County of Lyon, Nevada or the area within the limits of the County and such territory outside of the County over which the County has jurisdiction or control by virtue of any constitutional or statutory provisions.

EMPLOYEES: Whenever reference is made in this Code to a City employee by title only, this shall be construed as though followed by the words "of the City of Fernley".

FEE: A sum of money charged by the City.

LAW: Denotes applicable Federal law, the constitution and statutes of the State of Nevada, the ordinances and resolutions of the County and City and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

LICENSE: The permission granted for the carrying on of a business, profession or occupation.

MAY: Is permissive.

MISDEMEANOR: Any offense deemed a violation of the provisions of this Code which is a lesser offense than a felony, as defined by State law.

MONTH: A calendar month.

MUST and SHALL: Each is mandatory.

NUISANCE: Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the City, or any activity which by its perpetuation can reasonably be said to have a

detrimental effect on the property of a person or persons within the community.

OATH: Includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" are equivalent to the words "affirm" and "affirmed".

OCCUPANT: When applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

OFFENSE: Any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.

OFFICERS: Whenever reference is made in this Code to a City officer by title only, this shall be construed as though followed by the words "of the City of Fernley".

OPERATOR: The person who is in charge of any operation, business or profession.

OR; AND: May be read "and" and "and" may be read "or" if the sense requires it.

OWNER: As applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land.

PERSON: Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, or the manager, lessee, agent, servant, officer or employee of any of them, as well as a natural person.

PERSONAL PROPERTY: Includes every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

PRECEDING and FOLLOWING: Next before and next after, respectively.

PROPERTY: Includes real and personal property.

REAL PROPERTY: Includes lands, tenements and hereditaments.

RETAILER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

SIDEWALK: That portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

STATE: The State of Nevada.

STREET: Includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this City which have been or may hereafter be dedicated and open to the public use or such other public property so designated in any law of this State.

TENANT and OCCUPANT: As applied to a building or land, includes any person who occupies whole or part of such building or land, whether alone or with others.

TITLE OF OFFICE: Use of the title of any officer, employee, board or commission means that officer, employee, department board or commission of the City.

WHOLESALER and WHOLESALE DEALER: Unless otherwise specifically defined, such terms shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond required by law, it shall be in the proper handwriting of such person, or in case he is unable to write, by his proper mark.

YEAR: A calendar year.

1.03.03: CATCHLINES: The catchlines of the several sections of this Municipal Code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections nor as any part of the section nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

CHAPTER 4: GENERAL PENALTY

1.04.01: GENERAL PENALTY: Except where other penalties are provided by law, violations of the City of Fernley Municipal Code hereby are declared to be misdemeanors, punishable as provided in the NRS for misdemeanor violations as said statutes may be from time to time amended.

1.04.02: APPLICATION OF PROVISIONS: The penalty provided in this Chapter shall be applicable to every section of this Municipal Code the same as though it were a part of each and every separate section. Any person convicted of a violation of any section of this Municipal Code where any duty is prescribed or obligation imposed or where any act which is of a continuing nature or declared to be unlawful shall be deemed guilty of a misdemeanor. A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this Municipal Code.

In all cases where the same offense is made punishable or is created by different clauses or sections of this Municipal Code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this Municipal Code and there shall be no fine or penalty specifically declared for such breach, the provisions of this Chapter shall apply.

1.04.03: JURISDICTION: The commission of any act within the City limits or the failure to perform any act within the City which is made a misdemeanor by the laws of the State constitutes a misdemeanor.

1.04.04: LIABILITY OF OFFICERS: The failure of any officer or employee to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code unless a penalty is specifically provided for.

CHAPTER 5: CITY MANAGER

1.05.01: CREATION OF OFFICE: The office of City Manager, hereinafter referred to as "City Manager" or "Manager", is hereby created.

1.05.02: APPOINTMENT OF CITY MANAGER**:** The Manager shall be appointed by majority vote of the Council for an indefinite term. The Manager shall be chosen by the Council on the basis of executive and administrative qualifications with special reference to actual experience or knowledge in respect to the duties of the office hereinafter set forth. All recommendations for appointment or removal shall be based on the merit, qualifications, or disqualifications of the Manager without regard to political beliefs or affiliations. At the time of appointment, the appointee need not be a resident of the City or state, but during the Manager's employment, shall reside within the City. No Council Member shall receive such appointment during the term for which the Council Member shall have been elected nor within one (1) year after the expiration of the Council Member's term.

1.05.03: REMOVAL OF THE CITY MANAGER: The Council may remove the Manager at any time by a majority vote of its members, pursuant to the provisions of the contract between the Manager and the City Council.

1.05.04: POWERS AND DUTIES OF THE CITY MANAGER: The City Manager shall be the administrative head of the City and shall be responsible to the City Council for the administration of all departments with the following exceptions:

i. The City Council and Mayor reserve the power to make all determinations regarding employment decisions relative to pay, hours of work, disciplinary matters, scope of duties, hiring or dismissal of the following positions: City Attorney, City Clerk, City Treasurer, Municipal Judge.
ii. Except as otherwise provided by law.

The City Manager shall be responsible to the Council for the proper administration of the affairs of the City. The City Manager's chief guide in conducting and structuring City personnel will be the City of Fernley Personnel Policy Manual. Insofar as the Mayor is the Chief Executive Officer of the City under NRS 266.165 with the attendant responsibilities, powers, and duties as described in NRS 266.190, the Manager shall direct his/her efforts toward assisting the Mayor in accomplishing these described objectives, powers, and responsibilities. The City Council and the Mayor should be consulted and informed of major changes and other policy decisions prior to making such a decision. The Manager is granted the authority and shall be held accountable to:

(A) Appoint and, when necessary for the good of the City suspend or remove all non-elected officers and employees of the City except as otherwise provided in subsection 1.05.01(i) and by law. The Manager may authorize the head of a department or office to appoint, suspend, or remove subordinates in such department or office.

(B) The City Manager shall submit personnel decisions regarding the creation of new

positions, reclassifications of any positions, and any rate increase in excess of four per cent (4%) to the City Council for its action. Any action by the City Council relative to personnel issues shall be properly noticed and in compliance with the NRS 241 and in compliance with the City of Fernley Personnel Manual and Collective Bargaining Agreement.

(C) Prepare the City budget annually and submit it to the Council together with a message describing the important features and be responsible for its administration after adoption.

(D) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the Council for the preceding year.

(E) Keep the Council advised of the financial condition and future needs of the City, and make such recommendations as may be deemed desirable.

(F) Recommend to the Council a schedule of pay for each office and position in the City's service, including minimum and maximum rates, and step increases subject to approval by City Council.

(G) Recommend to the Council adoption of such measures as may be deemed necessary or conducive to the maintenance or improvement of the health, safety or welfare of the community or for the improvement of administrative services.

(H) Consolidate or combine offices, positions, departments, or units under his/her jurisdiction, with the approval of the Council, to structure the operational departments of the City.

(I) Attend all meetings of the Council unless excused and take part in the discussion of all matters coming before the Council. The Manager shall be entitled to notice of all regular and special meetings of the Council.

(J) Supervise the purchase of all materials, supplies, and equipment for which funds are provided in the budget; let contracts necessary for operation or maintenance of the City services for amounts up to and including $10,000, receive sealed bids for the purchases or contracts in excess of $10,000 and present them to the Council and to the City's legal counsel for review as appropriate, in accordance with State law.

(K) Investigate the affairs of the City or any department or division thereof, as appropriate. Investigate or delegate the investigation of all complaints in relation to matters concerning the administration of the government of the City, and in regard to service maintained by the public utilities in the City, and see that all franchises, permits, and privileges granted by the City are faithfully observed.

(L) Devote his/her time to the discharge of all official duties and will not engage in other employment while working for the City.

(M) Perform such other duties as may be required by the Council, not inconsistent with laws or ordinances. (rev ORD 2010-010)

1.05.05: COUNCIL NOT TO INTERFERE WITH APPOINTMENTS OR REMOVALS: Neither the Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the Manager or any of the Manager's subordinates, or in any manner take part in the appointment of officers and employees in the administrative services of the City, except as provided by law and pursuant to 1.05.04(i) and (ii).

Except for the purpose of inquiry, the Council and its members shall deal with the administration solely through the Manager and neither the Council nor any member thereof shall give orders to any subordinates of the Manager, either publicly or privately.

1.05.06: EMERGENCIES: In case of accident, disaster, or other circumstance creating a public emergency, the Manager may award contracts and make purchases for the purposes of meeting said emergency; but the Manager shall file promptly with Council a report showing such emergency and the necessity for such action, together with an itemized account of all expenditures.

1.05.07: TEMPORARY ABSENCE OR VACANCY/ACTING CITY MANAGER: In the event of a temporary absence by the Manager, he/she may appoint an Acting City Manager during said absence. If the Manager is incapacitated to the point that he/she cannot make a temporary appointment, the Mayor shall be empowered to appoint an Acting City Manager. If the Manager is absent due to a suspension or placed on administrative leave by the Council, the Mayor shall be empowered to appoint an Acting City Manager. During a vacancy of the Manager's position, the Council may appoint an Acting City Manager. The Acting City Manager shall exercise the full authority of the Manager during the temporary absence or vacancy of the Manager's position.

1.05.08: SAVING CLAUSE: If any section, subsection, or sentence, clause, or phrase of this ordinance is for any reason held invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. (ORD 2001-0001)

CHAPTER 6: CITY ATTORNEY

1.06.01: CREATION OF OFFICE: The City Attorney shall be the legal advisor of the Council and all officers of the City in all matters respecting the affairs of the City except as otherwise directed by the Council. The Council may by resolution specify requirements for appointment, compensation, powers, duties and other matters relative to the office in the addition to those specified by statute.

1.06.02: APPOINTMENT OF CITY ATTORNEY: The City Attorney shall be appointed by the Mayor by and with the consent of the Council, pursuant to NRS 266.405 (2), and shall hold the office during the pleasure of the Mayor and Council. (ORD 2001-0003)

CHAPTER 7: CITY CLERK

1.07.01: CREATION OF OFFICE: The Office of City Clerk is hereby established. The Council may by resolution specify requirements for appointment, compensation, powers, duties and other matters relative to the office in addition to those specified by statute.

1.07.02: APPOINTMENT OF CITY CLERK: The City Clerk shall be appointed by the Mayor by and with the consent of the Council, pursuant to NRS 266.405 (2), and shall hold the office during the pleasure of the Mayor and Council. (ORD 2001-0004)

1.07.03: RECORDS MANAGEMENT, DEFINITIONS: As used in this ordinance, unless the context otherwise requires, the words and terms defined in sections 2 to 16, inclusive, of this ordinance have the meanings ascribed to them in those sections.

DIVISION: The division of records management of the City Clerk's Office.

DUPLICATE: Any accurate and unabridged copy of a record or series of records which is not an original.

NON-RECORD MATERIAL: Published books and pamphlets, books and pamphlets printed by a government printer, worksheets used to collect or compile data after that data has been included in a record, answer pads for a telephone or other informal notes, stenographers' notes after the information contained therein has been transcribed, unused forms except ballots, brochures, newsletters, magazines, newspapers except those newspapers received pursuant to NRS 247.070 (counties only) or parts of newspapers retained as evidence of publication, scrapbooks and property left or deposited with an office which would otherwise be defined as a record except that the ownership of that property does not reside with the City of Fernley.

OFFICE: An office, department, board, commission, committee, agency, or any other sub-division of the City of Fernley.

ORIGINAL: An original as defined in NRS 52.205, a reproduction made pursuant to the provisions of NRS 239.051, or any record designated by the records committee to be an original. An original made pursuant to the provisions of NRS 239.051 consists of both the stored copy, and the copy maintained for the use of authorized persons.

RECORD: All documents, papers, letters, pamphlets, books, maps, charts, blueprints, drawings, photographs, films, software used to process electronic data, information stored on magnetic tape or computer, laser or optical disc, materials which are capable of being read by a machine, including microforms and audio and visual materials, computer printouts, newspapers received pursuant to NRS 247.070, artifacts entered as exhibits in any proceeding in any court, and any other evidence, including all copies thereof, made or received pursuant to a law or ordinance or in connection with the transaction of the official business of any office or department of City of Fernley.

thereof, made or received pursuant to a law or ordinance or in connection with the transaction of the official business of any office or department of City of Fernley.

RECORDS COMMITTEE: The records committee established in section 12 of this ordinance.

1.07.04: RECORDS MANAGEMENT, CREATION: Pursuant to the provisions of subsection 1 of section 125 of chapter 239 and subsection 2 of section 480 of Chapter 266 of the Nevada Revised Statutes, the division of records management is hereby created in the City Clerk's Office. The division is administered by the City Clerk.

1.07.05: RECORDS MANAGEMENT, PROCEDURES: It is the intent of the Fernley City Council that the division, in carrying out its functions, follow accepted:

(A) Procedures for the management of records to increase the efficiency of the records keeping system and reduce the administrative costs associated with the creation, maintenance, use, retention, and disposition of records; and

(B) Standards of archival practice to ensure the preservation of records with permanent value and maximum accessibility to records for the general public.

1.07.06: RECORDS MANAGEMENT, STANDARDS: The division shall:

(A) Establish standards, procedures and techniques for the effective management of records;

(B) Make continuing surveys of current practices for the management of records and recommend improvements in those practices, including the use of space, equipment and supplies to create, maintain and store records;

(C) Establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposition of records which no longer possess sufficient administrative, legal, fiscal or research value to warrant their further retention;

(D) Establish, maintain and operate a center for storing and receiving records of the several offices pending their disposition in a manner prescribed by law;

(E) Establish a unit to provide micrographic services to the several offices of the city/county;

(F) Establish a program for the management of forms and files;

(G) Establish a program for the protection of records essential for the continuation or re-establishment of governmental operations in the event of natural or other disaster; and

(H) Establish a program for the preservation and conservation of records designated by

the state or the division as having a permanent retention value.

(I) Establish the City of Fernley Records Manual.

1.07.07: RECORDS MANAGEMENT, ADMINISTRATOR-CITY/COUNTY: The division may employ separately or cooperatively with another local governmental entity a city/county records administrator to carry out the duties of the division.

1.07.08: RECORDS COMMITTEE:

(A) A records committee is hereby established to be known as the Fernley Records Committee.

(B) The Records Committee shall be composed of:

(1) the City Attorney;
(2) the City Clerk;
(3) the City Manager; and
(4) the Finance Director.

1.07.09: RECORDS COMMITTEE DUTIES: The records committee shall:

(A) Approve all records retention and disposition schedules; and

(B) Review any request for access to information which was denied by an official to determine whether the denial was in keeping with prevailing law.

1.07.10: CUSTODY AND CONTROL OF RECORDS:

(A) The rights of custody and control of records transferred to the city records center remain with the transferring office.

(B) The rights of custody and control of accession to the city archives transfer to the division at the time the records are accepted as an accession.

1.07.11: RECORDS DISPOSAL: Records may be disposed of only in accordance with the schedules for the retention and disposition of records prepared by the division and approved by the records committee.

1.07.12: RECORDS DESTRUCTION:

(A) Records to be destroyed must be disposed of in accordance with procedures approved by the records committee and NAC 239.165.

(B) The records administrator or a representative of the office must supervise the destruction of all records in their care and attest that such destruction was carried out in the manner provided for by the records committee and NAC 239.165. (ORD 2006-007)

CHAPTER 8: CITY TREASURER

1.08.01: CREATION OF OFFICE: The Office of City Treasurer is hereby established. The Council may by resolution specify requirements for appointment, compensation, powers, duties and other matters relative to the office in addition to those specified by statute.

1.08.02: APPOINTMENT OF CITY TREASURER: The City Treasurer shall be appointed by the Mayor by and with the consent of the Council, pursuant to NRS 266.405 (2), and shall hold the office during the pleasure of the Mayor and Council. (ORD 2001-005)

1.08.03: CENTRAL CASHIERING SYSTEM ESTABLISHED: This Chapter is enacted pursuant to Nevada Revised Statute 266.515.

1.08.04: PURPOSE: The purposes of this Chapter are to:

(A) Assure the separation of money-handling duties.

(B) Assure the accountability for moneys received and disbursed.

(C) Reduce the clerical effort needed to handle, process and account for all moneys received.

1.08.05: GENERAL POLICIES:

(A) All moneys received by the offices of the City shall be deposited into the banking system on the day following receipt. Exceptions to this practice shall be limited to cases where the money received is nominal in amount, and will be permitted only on written approval by the City Manager or his designee.

(B) To the extent possible all payments to City must be made to the City Treasurer's office or designated cash receipting station.

(C) All moneys received shall be deposited intact; that is, moneys received shall not be used to pay bills, cash personal checks, or be used in any other type of transaction which will interfere with the concept that all moneys received in a day will be deposited in the form in which they were received.

(D) Each department involved shall have fully documented procedure manuals concerning all aspects of its handling of City funds. Such manuals shall be maintained in an up-to-date manner and shall be readily available to all City personnel. All City personnel involved in the handling of City moneys shall be required to sign a statement to the effect that they have read and understand the procedure manual.

(E) Persons making payment shall be advised to make checks payable to the office and not to the person currently holding the office.

(F) Any bank account maintained by a department or office of the City shall be formally reconciled each month, by the tenth day following the end of such month. The reconciliation shall be:
(1) In a form approved by the City Manager or his designee;
(2) Dated and signed by the preparer and the department head; and
(3) Kept as a permanent record.

(G) The policies set forth in subsection A to F, inclusive, of this Section shall be implemented on a gradual basis. Specific requirements implementing these policies shall be proposed as part of the study of the cash procedures followed by each department.

1.08.06: BANK ACCOUNTS; ESTABLISHMENT: New bank accounts shall be established only after the following actions have been taken:

(A) Transmittal of a letter from the requesting department to the City Treasurer explaining the need for the bank account, with additional copies being transmitted to the City Manager.

(B) Receipt of responses from the City Manager and analysis by the City Treasurer.

(C) Receipt by the City Council of specific recommendations from the City Treasurer, after his evaluation of the initial request and of the responses from the City Manager and analysis, as well as his consideration of the purposes established for the handling of moneys by Section 1.10.04 of this Chapter.

(D) Affirmative action by the City Council.

1.08.07: BANK ACCOUNTS; REVIEW:

(A) The City Treasurer shall maintain formal records on all City bank accounts, including but not limited to reasons for establishment, authorized signatures, and statistics covering the activity in the bank account and estimated bank profitability.

(B) At least once a year, the City Treasurer shall cause to be made a formal review of cash-handling procedures in each office handling money. The City Treasurer shall recommend procedural changes as needed, and shall provide the City Manager with a formal report of each review.

CHAPTER 9: MUNICIPAL COURT JUDGE and MUNICIPAL COURT

1.09.01: CREATION OF OFFICE: The office of Municipal Court Judge is hereby created. The Council may by resolution specify requirements for appointment, compensation, powers, duties and other matters relative to the office of Municipal Court Judge in the addition to those specified by statute.

1.09.02: APPOINTMENT OF MUNICIPAL COURT JUDGE: The Municipal Court Judge shall be appointed by the Mayor by and with the consent of the Council, pursuant to NRS 266.405 (2), and shall hold the office during the pleasure of the Mayor and Council. (ORD 2001-0002)

1.09.03: ESTABLISHING MUNICIPAL COURT: The Municipal Court ("the Court") is hereby established, pursuant to NRS 266.550 *et seq.* and NRS Chapter 5.

1.09.04: ENACTMENT OF MISDEMEANOR OFFENSES: As authorized by NRS 5.050(2) and pursuant to NRS 266.321, any offense made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor in the City whenever such offense is committed within the City.

1.09.05: DESIGNATION AS COURT OF RECORD: Pursuant to the authorization of NRS 5.010(2), the Court is hereby designated as a court of record.

1.09.06: ADOPTION OF AN ADMINISTRATIVE ASSESSMENT FOR COURT FACILITIES: Pursuant to NRS 176.061 l, the judge of the Court is hereby authorized to impose for not longer than 25 years an administrative assessment for the provision of court facilities, in the amount of $10.00 per misdemeanor, including the violation of any municipal ordinance. (ORD 2001-0011)

CHAPTER 10: ELECTIONS

1.10.01PRIMARY ELECTIONS: There shall be held, pursuant to NRS 293C.115, a primary election for the purposes of nominating candidates for offices of the City and there shall be held on the first Tuesday after the first Monday in November of even-numbered years, a general city election for the purpose of electing officers of the city.

1.10.02 ELECTION OF MAYOR: The electors of the City at large shall vote upon the candidates for mayor, pursuant to NRS 293C.140.

1.10.03 ELECTION OF COUNCIL MEMBERS: In each ward which is scheduled for election of its council member pursuant to the staggered terms provided by NRS 193C.140, the electors who reside in that ward shall vote upon the candidates for City Council from that ward, pursuant to NRS 266.220.

1.10.04 BOUNDARIES OF WARD, DETERMINATION: The boundaries of the wards shall be changed by ordinance of the Council, whenever it is determined necessary prior to an election that the population in any ward exceeds the population in any other ward by more than five (5%) percent as calculated using dwelling units, pursuant to NRS 266.095.

1.10.05 CANDIDATE FILING FEE: Each candidate for an elective office shall pay a filing fee, which shall be established by resolution of the Council, pursuant to NRS 293C.145 (3).

1.10.06 DECLARATION OF CANDIDACY: A candidate for any office to be voted for at a city election must file a declaration of candidacy with the City Clerk not less than sixty (60) days nor more than seventy (70) days before the date of the election, pursuant to the provisions of NRS Chapter 293C.

1.10.07 ELECTION OFFICERS, BOARDS AND TRAINEES: The City Clerk shall appoint election officers, boards and trainees, pursuant to NRS 293C.220.

1.10.08 PROCEDURES, CITY CLERK POWERS: The City Clerk shall establish any other procedures or requirements as needed for the holding of city elections. (ORD 2007-002)

1.10.09: WARD BOUNDARIES:

(A) WARD 1: shall include all the dwelling units contained within the boundary, beginning at the Fernley City Limits/Churchill County Line at the eastern intersection of U.S. Highway 50 Alternate; thence northwesterly along U.S. Highway 50 Alternate to its intersection with Farm District Road; thence westerly along Farm District Road to its intersection with Desert Lakes Drive; thence northerly on Desert Lakes Drive to its intersection with Divot Drive; thence northwesterly on Divot Drive to its intersection with Pepper Lane, thence

northerly and east along Pepper Lane to its intersection with Julia Lane; thence north on Julia Lane to its intersection with U.S. Highway 50 Alternate; thence northwesterly along U.S. Highway 50 Alternate and the intersection with Farm District Road where it becomes U.S. Highway 40/Main Street; thence northwesterly along U.S. Highway 40/Main Street to its intersection with Truckee Lane; thence westerly and north westerly along Truckee Lane and its extension to the Truckee/Carson Canal; thence north westerly along the Truckee/Carson Canal to the intersection with the Fernley City Limits/Pyramid Lake Paiute Tribe Reservation; thence northerly and southerly along the Fernley City Limits to the point of the beginning.

(B) WARD 2: shall include all the dwelling units contained within the boundary, beginning at the Fernley City Limits/Churchill County Line at the eastern intersection of U.S. Highway 50 Alternate and the Fernley City Limits; thence northwesterly along U.S. Highway 50 Alternate to its intersection with Farm District Road; thence westerly along Farm District Road to its intersection with Jenny's Lane; thence north and west along Jenny's Lane to its intersection with Farm District Road; thence southerly along Farm District Road to its intersection with Wilson Way; thence westerly on Wilson Way to its intersection with Ricci Lane; thence southerly along Ricci Lane and its extension to the Truckee/Carson Canal; thence northwesterly along the Truckee/Carson Canal to its intersection with Miller Lane; thence northerly along Miller Lane to its intersection with U.S. Highway 40/Main Street; thence westerly and northerly on U.S. Highway 40/Main Street to its intersection with Truckee Lane; thence westerly and north westerly along Truckee Lane and its extension to the Truckee/Carson Canal; thence north westerly along the Truckee/Carson Canal to the intersection with the Fernley City Limits/Pyramid Lake Paiute Tribe Reservation; thence southwesterly, easterly, and northerly along the Fernley City Limits to the point of the beginning.

(C) WARD 3: shall include all the dwelling units contained within the boundary, beginning at the Truckee/Carson Canal at a point east of the section line common to Section 23 and Section 24, T20N-R24E M.D.M.; thence north from said point to the intersection of Hardie Lane and Cottonwood Lane; thence east on Cottonwood Lane to the point of its intersection with Rosewood Drive; thence northerly along Rosewood Drive to its intersection with Westerlund Lane; thence west on Westerlund Lane to its intersection with Silver Lace Boulevard; thence northerly on Silver Lace Boulevard to its intersection with U.S. Highway 40/Main Street; thence westerly along U.S. Highway 40/Main Street to its point of intersection with Miller Lane; thence southerly on Miller Lane to its intersection with the Truckee/Carson Canal; thence east along the Truckee/Carson Canal to the point of beginning.

(D) WARD 4**:** shall include all the dwelling units contained within the boundary, beginning at the Truckee/Carson Canal at a point east of the section line common to Section 23 and Section 24, T20N-R24E M.D.M.; thence north from said point to the intersection of Hardie Lane and Cottonwood Lane; thence east on Cottonwood

Lane to its intersection with Rosewood Drive; thence north on Rosewood Drive to its intersection with Westerlund Lane; thence west along Westerlund Lane to its intersection with Silver Lace Boulevard; thence north on Silver Lace Boulevard to its intersection with U.S. Highway 40/Main Street; thence east along U.S. Highway 40/Main Street to its intersection with the Fernley A Drain; thence south westerly on the Fernley A Drain to Wagon Wheel Drive; thence south on Wagon Wheel Drive to the intersection with Mountain Rose Drive; thence west on Mountain Rose Drive to the intersection of Sunrise Lane; thence north on Sunrise Lane to the intersection of Shadow Lane; thence west on Shadow Lane to the intersection of Farm District Road; thence south on Farm District Road to its intersection with Wilson Way; thence west along Wilson Way to its intersection with Ricci Lane; thence south on Ricci Lane and its extension to the intersection with the Truckee/Carson Canal; thence northwesterly along the Truckee/Carson Canal to the point of beginning.

(E) WARD 5**:** shall include all the dwelling units contained within the boundary, beginning at the point where U.S. Highway 50 Alternate intersects with Julia Lane; thence south along Julia Lane to its intersection with Pepper Lane; thence west and southerly on Pepper Lane to its intersection with Divot Drive, thence southeast on Divot Drive to its intersection with Desert Lakes Drive, thence south on Desert Lakes Drive to its intersection with Farm District Road; thence west on Farm District Road to its intersection with Jenny's Lane; thence north and west on Jenny’s Lane to its intersection with Farm District Road; thence northerly along Farm District Road to its intersection with Shadow Lane; thence east on Shadow Lane to its intersection with Sunrise Lane; thence south on Sunrise Lane to the intersection with Mountain Rose Drive; thence east on Mountain Rose Drive to the intersection with Wagon Wheel Drive; thence north on Wagon Wheel Drive to where it dead ends into the Fernley A Drain; thence north easterly on the Fernley A Drain to the intersection with U.S. Highway 50 Alternate, thence easterly to the point of beginning. (ORD 2006-003, ORD 2011-008)

CHAPTER 11: MAYOR AND CITY COUNCIL

1.11.01: SALARIES: The first salary for the Mayor was set at $700.00 per month and the first salary for the Council was set at $600.00 per month, effective July 1, 2001. Effective at the beginning of the next term of the Mayor, the Mayor shall be paid $1,200.00 per month. Effective at the beginning of the next term of each individual Council Member, the new salary shall be $900.00 per month.

1.11.02: ANNUAL INCREASES: Hereafter, effective on the first day of each fiscal year (July 1st) the salaries for the Mayor and the City Council shall be adjusted to include the annual cost of living adjustment set by the U.S. Consumer Price Index, CPI-U (all urban consumers), if any. For reference only, as of the 7/1/04 CPI adjustment, the Mayor's salary is $749.71 per month and the City Council's salary is $640.42 per month and the CPI adjustments shall continue each July 1st, however the CPI adjustment of the new salary ($1,200/mo.) of the Mayor shall not apply until July 1st after the next term of the Mayor begins (which means that the CPI adjustment will occur 7/1/07 and thereafter). The same formula shall apply to Council Member salaries.

1.11.03: BENEFITS: The Mayor and Council shall be entitled to reimbursement for business mileage at the applicable federal rate, and reimbursement for reasonable expenses for travel, food, and lodging for approved meetings and conferences. Requests for reimbursement shall be submitted on approved City forms with appropriate documentation.

1.11.04: EFFECTIVE DATE: The effective date of the original ordinance was July 1, 2001. The effective date of this amendment will be Mid April 2005, however the new salary for the Mayor & Council Members shall be effective in the future, as applicable with new terms of office. (ORD 2005-004)

1.11.05: RULES AND PROCEDURES OF FERNLEY CITY COUNCIL:

(A) Pursuant to NRS 266.240 Fernley City Council (herein referred to as "Council") may determine its own rules of procedure. The following rules of procedure shall be in effect upon their adoption by the Council and until such time as they are amended by resolution.

(B) MEETINGS:

(1) Council shall meet in Council Chambers for regular meetings located at 595 Silver Lace Boulevard, Fernley, Nevada. The regular meetings will be held on the first and third Wednesday of each month starting at 5:00 PM. The time and/or place of a regular meeting may change by majority vote of Council members. Any additional Council meetings may be held by majority vote of Council or through statutory procedure. If a regular meeting day falls on a legal holiday, the meeting shall be held on the next business day. (ORD 2010-012)

(2) Notice of Meetings will comply with the regulations of NRS Chapter 241, Nevada Open Meeting Law. In case of an emergency, notice will be as long as is

reasonable under the circumstances.

NRS 241.020(2) provides that except in an emergency, written notice of all meetings must be given at least three working days before the meeting. NRS 241.020(8) defines an emergency as: “an unforeseen circumstance which requires immediate action and includes, but is not limited to: (a) Disasters caused by fire, flood, earthquake or other natural causes; or (b) Any impairment of the health and safety of the public.”

(3) Recesses should be called throughout the meeting for the comfort of both the Council and the audience. Recesses should not exceed 15 minutes and should be called at a maximum of two hours of meeting time.

(4) The meetings will adjourn at 10:00 p.m., agenda items will not normally be initiated after 10:00 p.m. At 9:00 p.m., the Council shall determine which agenda items the Council will consider for the remainder of the evening. Items not heard by the 10:00 p.m. limit will be carried to the next regularly scheduled Council meeting, unless the Council chooses to continue the meeting by majority vote.

The time and/or place of a regular meeting may change by majority vote of Council members. Any additional Council meetings may be held by majority vote of Council or through statutory procedure. If a regular meeting day falls on a legal holiday, the meeting shall be held on the next business day.

(C) AGENDA**:**

(1) Order of Business (Regular Meetings):
Pledge of Allegiance
Roll Call
Approval of Minutes
Approval of Consent Agenda
Action & Information Items – Departments
Resolutions (if not listed during public hearing)
Recess
Reconvene
Public Comment & Presentations
Public Hearings (if any)
Ordinances & Resolutions (if any)
Pulled Consent Items (if any)
Mayor & Council Items
Citizen Agenda Items
Adjournment

(2) Time Certain for particular items may be set at the time the agenda is posted or by request of the City Manager, Mayor, or Council members at the beginning of the Council meeting. Time Certain means that the particular item will be heard no earlier than the time and may be heard any time after the specific time. For those

agenda items listed earlier on the agenda but not heard those items will be addressed after the public hearing. (ORD 2009-019)

(3) The Consent Agenda matters are routine and may be adopted by one motion. There will be no discussion of separate items, unless members of the City Council, staff, or members of the public, requests that a specific item be discussed and removed from the consent agenda for individual consideration after public hearings.

(4) Citizen Agenda Items: Any citizen of the City may fill out a Citizen Initiative (agenda form) form and submit it to the City Manager's for appropriate consideration and referral. If the City Manager's office determines that the Citizen Initiative request has merit, it will be referred to the appropriate staff, board or commission, or the City Council. If the City Manager's office determines that the Citizen Initiative should not be referred, the Office will inform the citizen in writing and let the citizen know that he or she can appeal to any Council member to place the item on a future Council agenda.

(5) Written Communications: Interested parties or their authorized representatives may address the Council by written communication in regard to matters under discussion. Written materials presented to the Council by members of the public should be submitted to the City Manager's Office five (5) working days prior to the Council meeting at which they are to be considered. When submitting written materials, members of the public must provide copies for distribution to all members of the Council, the Mayor, City Manager, City Attorney, City Clerk and Department Directors. When, in the opinion of the Council, information is presented untimely, and Council is unable to adequately review the materials before proceeding with the matter under discussion, the item shall be deferred for later consideration at that meeting or tabled to a later meeting.

(6) Public Comment and Presentations: During the proper time on the agenda, citizens attending a regular meeting may address the Council. Each person desiring to address the Council shall submit a comment card. Each person addressing the Council shall state into the public record.

Public Comment on items not on the agenda shall be confined to five minutes maximum duration, and should not be repetitious, no person other than the individual speaking shall enter into the discussion without the permission of the presiding officer. No questions shall be asked of a Councilmember except through the presiding officer. No action shall be taken on issues raised under the Public Comment section of the agenda.

(7) Presentations should be presented and held to ten (10) minutes or less, unless the Mayor or the City Council grants additional time by a majority of the Council members present. Such presentation shall be limited to the particular agenda item.

(8) No item shall be submitted to the Council, except through the City Manager, however, any member of the public, member of the Council or the City Manager may submit emergency items to the Council during the Council meeting. Excepting emergency actions necessary in furtherance of the public health, safety, or general welfare, no Council action shall be taken on any item not included on the published agenda.

(D) PRESIDING OFFICER**:**

(1) Pursuant to NRS 266.200, the Mayor shall preside over the City Council. In the absence of the Mayor, the Mayor Pro Tem shall be the presiding officer. If neither the Mayor nor the Mayor Pro Tem is available at a Council meeting, the Council shall appoint a presiding officer at the start of the Council meeting.

(2) The presiding officer shall preserve order and decorum among the members and enforce the rules of the Council and determine the order of business. The presiding officer shall state every question coming before the Council, announce the decision of the Council on all subjects and decide all questions of order, subject to an appeal to the Council, in which event a majority vote of the Council shall govern conclusively to determine such question of order unless otherwise subject to veto procedures outlined in Chapter 266 of Nevada Revised Statutes.

(3) The presiding officer may limit public input on an item to a time of five minutes.

(E) CALL TO ORDER: The presiding officer shall take the chair at the hour appointed for the Council meeting and shall immediately call the Council to order.

(F) ROLL CALL:

(1) Before proceeding with the business of the Council, the City Clerk, or the Clerk's designee shall take the roll of the Council members, and the names of those present shall be entered in the minutes. Roll Call will be placed as an item on the Agenda for every Council meeting. If a Council member were absent at a prior Council meeting, the presiding officer will declare whether the absence was excused, unexcused, or whether the Council member took a personal leave of absence. Should a Council member arrive late to a meeting after roll call, the presiding officer shall note the Council member's arrival into the minutes and reverse the absence.

(2) Quorum – A quorum shall consist of a majority of the members of Council. In the event of a lack of quorum and/or an emergency as defined by NRS 241.020(8) teleconferencing attendance at meetings by Council members will be permitted, when a Council member is unable to attend a meeting and a quorum is lacking teleconferencing may be used to establish a quorum.

When teleconferencing is used, facilities/equipment will be used which permit the public to hear and/or observe all telephonic/video communications.

The minutes of the meeting shall clearly set forth which members are present in person and which are present by telephone or video conference.

(G) ATTENDANCE:

(1) This Attendance policy, effective January 1, 2008, has been revised effective June 24, 2008 and applies to all Council meetings subject to Open Meeting Law requirements.

(2) Council members will have three paid personal absences during a one year period, starting January 1st of each year. Personal absences is defined as excused and not applicable to Council approved absences for bereavement and/or or illness.

(3) A Council member missing three consecutive and unexcused Council meetings, not including any personal absences, and excused absences, as defined in this section, shall constitute neglect or refusal to discharge the duties of a Council member. Absent appeal, the council member's office shall be deemed vacant at the next regularly scheduled meeting.

(4) A Council member missing four unexcused Council meetings between January 1st and December 31st, not including any personal absences or excused absences, shall constitute neglect or refusal to discharge the duties of a Council member. Absent appeal, the council member's office shall be deemed vacant at the next regularly scheduled meeting.

(5) A Council member may appeal a pending vacancy by giving written notice prior to next regular Council meeting to the City Manager of his/her intent to appeal the pending vacancy. This notice must occur prior to the City posting the Agenda in order for the matter to be properly agenized. During the appeal hearing, council members may consider the council member's past attendance and reasons for unexcused absences. At the close of the appeal hearing, a council member may make a motion to overturn the automatic finding of neglect or refusal to discharge the duties of a Council member due to absences. Such a motion must contain attendance provisions for the remainder of the calendar year and will only prevail by majority vote of council members. If the motion does not prevail, the council member's office shall be deemed vacant.

(6) Excused absences include City and Council business, and illnesses as defined in the City of Fernley Personnel Manual, this includes but is not limited to: his/her own physical illness or injury; his/her own exposure to contagious diseases or when attendance at a Council meeting is prevented by public health requirements; the need to care for a dependent child or spouse or parent who resides with an employee or who is dependent upon the employee for support; medical or dental appointments, provided that there was a reasonable effort to schedule such appointment at times to have the least interference with the work of the council; any member of the Council who is absent from a Council meeting

due to illness shall be at their residence or a medical facility or their doctor's office. The ordinance may require the Mayor or Council member to provide a medical doctor's certification that the illness/injury absence was necessary for the Council member to make a full and timely recovery, or was appropriate to avoid the spread of a contagious disease.

Any member of the City Council who must be absent from a Council meeting to attend the funeral of a family member who is within the third degree of consanguinity or affinity is considered excused.

Council members are encouraged to notify the Mayor and/or the City Manager of their intended absence prior to the Council meeting (preferably in writing). Notice (preferably in writing) must be given prior to the next regular council meeting where the Mayor will determine whether an absence by a council member is excused or unexcused. If notice is not provided, the Council member's absence will be declared as a personal leave of absence if not already used and unexcused where the Council member has already used his/her two personal leaves of absence.

(7) A Personal leave of absence and excused absences shall be paid. When the Mayor declares an unexcused absence, the Council member will be deducted 1/30th of his/her annual salary.

(8) In the event of a vacancy of a Council member, the vacancy shall be filled in the manner provided in NRS 266.225.

(9) Mental and/or physical incapacity shall be governed by the procedure of NRS 283.040.

(1) This section shall not limit or define any other statutory procedure governing discipline.
(ORD 2008-007)

TITLE 2: BOARDS AND COMMISSIONS

CHAPTER 1: PLANNING COMMISSION

2.01.01: ESTABLISHMENT: The Planning Commission ("the Commission") is hereby established, pursuant to NRS 268.110 and 278.030 *et seq.*

2.01.02: MEMBERSHIP AND GUIDELINES FOR APPOINTMENT: Pursuant to NRS 268.120, the Commission shall consist of the mayor, the city attorney, the city engineer, *ex officio,* and seven other members to be appointed by the mayor, not more than 2 of whom shall be nonresidents of the city. The mayor shall appoint the seven members with the advice and consent of the Council, and fill any vacancies, subject to the following guidelines:

(A) While not strictly limited to wards, precincts or other political districts, the members should be chosen with geographical diversity in mind. They should represent the city as a whole, but may be selected from different portions of the city and (as limited by NRS 268.120) from the unincorporated lands surrounded by the city, to help assure proper consideration of the entire area.

(B) Although no specific education, background or employment is required, the Commission should represent diverse interests throughout the city. No one occupation, field or industry should be over-represented or allowed to dominate the Commission.

(C) Pursuant to NRS 278.040, no city or county official or employee shall hold a position on the Commission. While there is no specific prohibition of any other public officer or governmental agent or employee holding a position on the Commission, the nature of that office and its potential for undue influence and conflicts of interest should be carefully reviewed in the consideration of such an official as a candidate for the Commission.

2.01.03: TERMS OF OFFICE: The Commissioners' terms shall be staggered four (4) year terms, as provided in NRS 268.120(2).

2.01.04: REMOVAL**:** Pursuant to NRS 278.040, a Commission member may be removed, after public hearing, by a majority vote of the City Council for just cause.

2.01.05: COMPENSATION AND EXPENSES: The Council may provide by resolution for compensation, expenses and subsistence allowances to the Commission members, subject to the limitations of NRS 278.040.

2.01.06: REGULATIONS: The Commission may adopt bylaws, rules or regulations for its operations, subject to approval by the City Council. (ORD 2001-0008)

CHAPTER 2: ARTS AND CULTURE COMMISSION

~~2.02.01: COMMISSION ESTABLISHED – MEMBERSHIP:~~

~~(A) The Fernley Arts & Culture Commission, consisting of five seven members appointed by the Mayor and confirmed by the vote of a majority of the members of the City Council, is established. The term of office shall be three years. Commission members shall be selected for staggered terms. Three Commissioners or their successors will serve a one, two or the full three-year term based on the position. All subsequent appointments shall be for three years, or for the duration of an unexpired term in the case of an appointment to a vacancy. All Commission members' terms shall expire on June 30th and all successive terms shall commence on July 1st. No member shall serve more than two consecutive full terms of office.(revised ORD 2010-001)~~

~~(B) Commission members shall be appointed upon the basis of demonstrated interest in, and knowledge and support of the arts. Members shall serve without salary or other compensation, provided that members shall be reimbursed for necessary expenses actually incurred with prior Administrative approval. One commissioner may be selected from the Community-at-large. Four commissioners shall reside or work within the city limits at the time of appointment and throughout their terms of office. A Commission member may be removed, after public hearing by a majority vote of the City Council for just cause.~~

~~(C) Prior to appointing initial members and filling each vacancy in the membership of the commission, public notice of available positions shall be provided to the news media at least two weeks in advance of appointment. Applicants for vacant positions shall apply to the office of the Mayor.~~

~~2.02.02: RULES OF PROCEDURE: The commission shall adopt procedural rules governing the transaction of its business, subject to the approval by the City Council. The rules shall include provisions for the date, time and place of regular meetings of the commission. Provisions shall be made for maintaining minutes of commission meetings and records of all commission reports, conclusions and recommendations. The rules of procedure shall provide for the election of commission officers, which shall include a chairperson and vice chairperson who shall serve for at least one year. The rules of the commission shall provide that all commission meetings shall be open to the public and that notice of meetings shall comply with the Nevada Open Meeting Act, to the extent proceedings of the commission are governed by such Act. The procedures shall address receipt and processing of citizen proposals and requests.~~

~~2.02.03: AUTHORITY OF COMMISSION: The Arts Commission is authorized to take the following actions:~~

~~(A) On behalf of the city, to encourage, conduct, sponsor or cosponsor public programs to further the development and public awareness of, and interest in, the fine and performing arts;~~

~~(B) To provide recommendations to the Mayor and City Council in connection with cultural and artistic endeavors and projects in which the city becomes involved and to act as a representative of the community in such matters;~~

~~(C) To encourage donations, grants and other support to further expand the arts and cultural services and programs available to citizens of Fernley and members of the Fernley community;~~

~~(D) To review and make recommendations to the City Council with respect to all public and private banner proposals that utilize City of Fernley graphics.~~

~~(E) To take such other actions as the City Council may direct from time to time.~~

~~2.02.04: MEETINGS AND STAFF SERVICES:~~

~~(A) The Arts & Culture Commission shall meet regularly at least once per quarter at a date, time and place to be established by the commission. Commission meetings shall be open to the public and written meeting minutes shall be maintained and made available to the public upon approval of the minutes by the commission.~~

~~(B) The City Manager's Office shall be responsible for providing administrative and staff services for the commission and may assign City Clerk and Park's department staff to provide services to the commission.~~

~~(C)The commission shall make a report to the City Council at least annually.~~

~~2.02.05: BUDGET: Arts & Culture Commission programs and operating expenses shall be funded from the city General Fund, grants, donations and admission charges. The City Manager's Office shall be responsible for submitting the annual operating budget to the City Treasurer, Mayor and City Council. (ORD 2007-006)~~

2.02.06: DISSOLUTION OF THE ARTS AND CULTURE COMMISSION: The City of Fernley Arts and Culture Commission shall be dissolved as an official City of Fernley Commission. The former members of the City of Fernley Arts and Culture Commission, or any other residents of the City, may continue to promote arts and culture within the City of Fernley as an independent organization without City oversight, staff support or financial support. Any organization established to encourage the promotion of arts and culture within the City shall enjoy the same benefits accorded to any other organization within the City. (ORD 2011-006)

CHAPTER 3: CHALLENGING A MEMBER OR MEMBERS OF A BOARD FOR BIAS OR PREJUDICE WHEN A ACTING IN A QUASI-ADJUDICATIVE CAPACITY

2.03.01 PROPERTY DEFINED: As used in this ordinance, the term “property” means any interest, right or entitlement, the deprivation or denial of which, by the government, is limited by one or more significant substantive restrictions on the decision to deprive or deny the person having or seeking the interest, right or entitlement.

2.03.02 PARTIES, STANDING: Any person appearing as a party before any public body conducting a hearing which may cause the party to be deprived of property and who believes that one or more members of the body bear actual bias or prejudice towards the person or that the member’s pecuniary or personal interest in the outcome of the hearing creates an appearance of partiality may challenge the participation of the partial, biased or prejudiced member or members in the hearing.

2.03.03 TIME FOR HEARING: The challenge shall be made at least two (2) working days before the date set for the hearing. If the facts upon which disqualification of a member is sought are not known to the party at the time the challenge must be filed then the challenge must be made prior to the commencement of the hearing.

2.03.04 AFFIDAVIT OF FACTS SUPPORTING CHALLENGE: The challenge must be made by filing an affidavit signed under penalty of perjury specifying the facts upon which the disqualification is sought with the City Manager. The City Manager shall forthwith deliver a copy of the affidavit to the challenged member or members.

2.03.05 CHALLENGED MEMBER’S RIGHTS: The challenged member or members may choose not to participate in the hearing or may deliver a written answer to the City Manager. If the challenged member chooses not to participate in the hearing because of the member’s personal or pecuniary interest in the outcome of the hearing or because he has received a gift or loan regarding the subject matter of the hearing, then the member shall provide the disclosure required by NRS 281.501(4).

2.03.06 TIME TO ANSWER CHALLENGE: The answer of the person challenged must be delivered within two (2) working days of the challenge. The answer must admit or deny the allegations set forth in the challenge and set forth any additional facts which bear on the question of the member or members disqualification.

2.03.07 HEARING OFFICER, DETERMINATION: If an answer is delivered, the question of the member’s or members’ disqualification shall be determined by a

hearing officer appointed by the Mayor. If the Mayor is the challenged member, then the appointment of a hearing officer shall be made by the highest ranking member of the public body not challenged. The appointment of the hearing officer must be made within two (2) working days of the delivery of the answer to the City Manager.

2.03.08 HEARING OFFICER, DECISION: The hearing officer shall forthwith hear the evidence and witnesses for and against the disqualification of the member or members and make his decision at the close of the hearing. The burden is upon the person challenging the member or members of the public body to overcome a presumption of honesty and integrity on the part of the in order to obtain the disqualification of the member or members.

2.03.09 PARTICIPATION OF CHALLENGED MEMBER: If the decision of the hearing officer is that the member or members are disqualified from participating in the hearing, then (s)he or they shall not participate in the hearing except as any other member of the public is entitled to participate in the hearing. (ORD 2007-007)

CHAPTER 4: FERNLEY CONVENTION AND TOURISM AUTHORITY

2.04.01: CITY OF FERNLEY CONVENTION AND TOURISM AUTHORITY BOARD ESTABLISHED

(A) The City of Fernley Convention and Tourism Authority Board, consisting of the voting members of Fernley City Council is established. The term of office shall coincide with the term of office of the City Council members.

2.04.02: RULES OF PROCEDURE: The City Council shall adopt procedural rules governing the transaction of its business and for disbursement of funds collected by the City of Fernley Transient Lodging Tax. The rules of procedure shall include provisions for the date, time and place of regular meetings for the City Council to convene as the Board. Provisions shall be made for maintaining minutes of Board meetings and records of all Board reports, conclusions and recommendations. The rules of procedure shall provide for the appointment of Board officers, which shall include chairperson and vice chairperson. The rules of procedures the Board shall provide that all Board meetings shall be open to the public and that notice of meetings shall comply with the Nevada Open Meeting Act, to the extent proceedings of the Board are governed by such Act. The rules of procedure shall address receipt and processing of citizen proposals and requests.

2.04.03: CITY OF FERNLEY CONVENTION AND TOURISM AUTHORITY BOARD. The City Council sitting as the City of Fernley Convention and Tourism Authority Board is authorized to take the following actions:

(A) On behalf of the City, encourage, conduct, sponsor or cosponsor programs to encourage tourism and economic development;

(B) To analyze the viability, feasibility and appropriateness of funding requests from applicants for funds from the City or sponsorship by the City for activities to encourage tourism within the City.

(C) Allowable uses for the requests for funds from the City Council sitting as the City of Fernley Convention and Tourism Authority Board by outside agencies shall be considered and used for:
   (1) Advertising the resources of the City of Fernley;
   (2) Advertising available accommodations (hotels, motels, restaurants, etc.) within the City of Fernley;
   (3) Advertising available transportation (bus, air, etc.);
   (4) Advertising special events;
   (5) Advertising natural resources and climate; and
   (6) Reimbursements of budgeted expenses for special events, which have been approved by the Board.

(D) Left over funds remaining at the end of the calendar year shall transfer to:
   (1) Next calendar year for the next grant cycle; or

(2) Roll-Over to the Convention/Civic Center Fund

(E) To take such other actions as the City Council may direct from time to time.

2.04.04. MEETINGS AND STAFF SERVICES.

(A) The City Council sitting as City of Fernley Convention and Tourism Authority Board shall meet regularly, at least semi-annually with the date, time and place of regular meetings to be determined. Board meetings shall be open to the public and written meeting minutes shall be maintained and made available to the public upon approval of the minutes by the Board.

(B) The City Manager's Office shall be responsible for providing administrative and staff services for the Board and may assign the City Clerk to provide support services.

(C) The City Manager or his designee shall make a report to the City Council sitting as City of Fernley Convention and Tourism Authority Board annually during the budget process. The report shall include:

(1) Amount of funds generated by the Transient Lodging Tax;
(2) Number and type of grant applications received by the FCTA Board;
(3) Grant recipients information including, but not limited to, the name of event, grant amount, purpose(s) of grant, success of event (approximate number of attendees, room nights generated by event);
(4) A list of potential projects, studies or initiatives which the City Council sitting as City of Fernley Convention and Tourism Authority Board may consider during the coming fiscal year and which may require staff assistance to undertake and complete along with a justification for each;
(5) Status of City of Fernley Convention/Civic Center.

(D) The City Manager or his designee shall process the applications for fund disbursement to outside agencies. The Finance Director shall distribute funds pursuant to policy upon award of funds by the Board.

2.04.05 BUDGET

(A) City of Fernley Convention and Tourism Authority Board programs and operating expenses shall be funded from the City's Special Revenue Fund generated by the Transient Lodging Tax, grants, donations and admission charges. The City Manager's Office shall be responsible for submitting the annual operating budget to the City Treasurer, Mayor and City Council.

(B) Disbursement of Funds. Disbursement of funds to outside agencies shall not exceed fifty per cent (50%) of the revenue generated by the Transient Lodging Tax.

(C) Convention/Civic Center: At least fifty per cent (50%) of the funds generated by the Transient Lodging Tax will be used for the construction, operation and maintenance of the City of Fernley Convention/Civic Center.

(D) The distribution of funds and allowed uses of funds generated by the Transient Lodging Tax may be amended by Resolution of the City Council. (ORD2011-005)

TITLE 3: BUSINESS LICENSE REGULATIONS

CHAPTER 1: GENERAL BUSINESS LICENSE PROVISIONS

3.01.01: PURPOSE AND SCOPE: This Title establishes the minimum procedural requirements for the City of Fernley to issue a business license, provides a basis to regulate entities which conduct business in the City of Fernley, and shall be known as the Business License Code.

The provisions of this Title apply to all businesses in the City, including privileged businesses and franchises. Nothing in this Title shall be deemed or construed to exempt any organization from complying with the provisions of any other City ordinance, including but not limited to, permit requirements, zoning requirements, and restrictions on privileged or illegal activities.

3.01.02: DEFINITIONS: For the purposes of this Chapter, unless the context otherwise requires, the following definitions apply:

APPLICANT: Any person who has requested or will request a City business license or permit.

ADVERTISE: To call attention to a product, service, or business so as to promote sales.

BUSINESS OR DOING BUSINESS: Any business, commercial enterprise, trade, occupation, calling, profession, vocation, or activity engaged in, conducted, carried on by any person, his agent or employee for the purpose of direct or indirect gain, with the principle objective of livelihood and/or profit through repetitive means within the City. This includes, but is not limited to:

(A) Any activity conducted by a person for which such person is required to file with the Internal Revenue Service for the activities; or

(B) The performance of services for compensation that are not normally subject to withholding taxes, including but not limited to, independent contractors and commissioned sales agents.

The terms BUSINESS or DOING BUSINESS do not include activities conducted by, or for the exclusive benefit of, organizations that are certified as tax exempt entities pursuant to 26 U.S.C. § 501(c) or authorized by Nevada State Law as a non-profit organization, including but not limited to organizations operated for religious, charitable, scientific, literary, educational, or fraternal purposes.

COMMERCIAL MOBILE RADIO SERVICE: Any commercial mobile radio service as defined in 47 CFR § 20.3 as of July 5, 1995.

CITY: The City of Fernley, a political subdivision of the State of Nevada.

COMMERCIAL RENTALS: Any leased nonresidential office unit or units.

CONTRACTOR: A person required by State of Nevada Contractors Board to have a license as a contractor, whether the person is a general or subcontractor.

COUNCIL: The City Council of the City of Fernley.

COUNTY: Lyon County, a political subdivision of the State of Nevada.

DEPARTMENT: The City of Fernley Business License Division.

ELECTRIC ENERGY PROVIDER: Any business or local government that provides electric energy to the public, regardless of whether they are regulated by the Public Service Commission of Nevada.

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

GARAGE SALE: All occasional and casual sales of personal property opened to the public and held on the seller's own residential premises 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 local government that provides gas service to the public, regardless of whether they are regulated by the Public Service Commission of Nevada, including but not limited to, natural gas and propane gas.

GROSS REVENUE: All revenue received by a public utility from customers located within the incorporated area of the City, except:

(A) Revenue collected other than intrastate telecommunications services by retail customers; or

(B) Revenue collected by natural gas providers from the sale of natural gas to a provider of electric energy which holds a Certificate of Public Convenience and Necessity issued by the Public Service Commission of Nevada.

HOBBY-SUPPLEMENTAL INCOME BUSINESS: Any activity conducted as a hobby, or to supplement one's income, if the gross income derived from such activity does not exceed two thousand five hundred dollars ($2,500) per year.

HOLIDAY: A week day during which the Department is closed in observance of this day.

HOME OCCUPATION BUSINESS: A person, excluding contractors, conducting business out of residence and whose business complies with the home occupation regulations of the City of Fernley Development Code.

KENNEL, COMMERCIAL: Any enclosure, premises, building, structure, lot or area where more than three (3) dogs over six (6) months of age are kept, harbored or maintained for commercial purposes.

LICENSE: Permission granted by the licensing authority to engage in the business for which the license is issued.

NON-PROFIT OR CHARITABLE ORGANIZATION: An organization, institution, corporation. or association formed for civic purposes, whose donations or receipts received are not used for the private gain of any person, that is exempt from federal income tax pursuant to 26 U.S.C. § 501(c) of the United States Internal Revenue Code, and has received from the Nevada Secretary of State a certificate of non-profit corporation, association, or society.

OUT OF TOWN BUSINESS: A person, excluding a contractor, conducting business or providing services within the City limits without a physical address in the City.

PREMISES: Actual space of a particular business which would include all buildings, improvements, surrounding sidewalks, and designated parking.

PROFESSIONAL: One whose practice of a profession for any type of compensation as an employee requires advanced education and holds a license, certificate, registration, permit, or similar type of authorization issued by a regulatory body such as a state licensing agency, board, or commission or who is regulated pursuant to the Nevada Supreme Court Rules.

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

RESIDENTIAL DWELLING UNIT: includes, but not limited to:

(A) Any hotel, lodging house, apartment house, motel or single-family dwelling unit, with any rental for a period of twenty-eight (28) consecutive days or more; or

(B) Any unit which contains a home-based business.

TELECOMMUNICATIONS COMPANY: Any business or local government which 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.

3.01.03: BUSINESS LICENSE REQUIRED; EXCEPTIONS; OTHER LICENSES REQUIRED:

(A) LICENSE REQUIRED: It is unlawful for any business to engage in or advertise the engagement in any trade, profession, calling, or business within or partially within the City without applying for and securing a license or permit and paying the appropriate license fee as provided by terms and provisions of this Title. Any person conducting business without securing a license or failing to comply with any terms and conditions contained within this Title shall be in violation of this Title for each day that such activities continue. Any person found in violation of this section must immediately cease all non-licensed operations.

(B) EXCEPTIONS: The provisions contained in this Chapter do not apply to:

(1) Any private individual(s) who has no more than three (3) garage sales per year;
(2) Any nonprofit organization registered with the Internal Revenue Service or with the State of Nevada Secretary of State, is exempt from the imposition of any license fee, except as provided elsewhere in this Title; provided, however, that such organization shall register with the division and if operating at a commercial location in the City, shall be required to have said location inspected by the City for conformance with building, safety, fire, and other regulations, as if a license were required of the establishment;
(3) Any business that is specifically regulated under a separate Chapter of this Title which exempts the business from the provisions of this Chapter.
(4) Any person who owns rentals if the rentals are managed by a person who holds a City business license as a property manager.
(5) Businesses located outside of the City that are hired by a licensed business or government agency for seminars or training of their employees.

(C) STATE AND OTHER LICENSES REQUIRED: Any business applying for a license under this Title which 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. Upon such proof and payment of the appropriate licensing fee, the Department may issue a temporary license pending Council action.

3.01.04: APPLICATION FOR LICENSE:

(A) An application for a business license under this Title shall be made by affidavit on forms supplied by the Department. The application shall require disclosure of all information that the City shall find to be reasonably necessary to the fair and efficient administration of this Title. Application shall be accompanied by the full amount of the fees chargeable for such license and shall contain at a minimum the following information:

(1) The full name of the applicant and business;
(2) The physical and mailing address of the business;
(3) The anticipated date on which the business will commence;
(4) The type of business to be conducted under the license; and
(5) Sufficient information to calculate fees under this Title.

3.01.05: REVIEW AND APPROVAL PROCESS:

(A) An application for license shall be referred to the appropriate City department for review and investigation if the Department Director deems necessary. Based on the recommendations received from the appropriate department, the application will either be approved or denied pursuant to Section 3.01.11 of this Title;
(B) Privilege and liquor licenses will be placed on the first available City Council agenda for approval;
(C) Licenses shall show the name and address of the licensee, name of business, type of business, date business license was issued, date of expiration, and any limitations and restrictions imposed by the Council or Department Director as conditions of the approval;
(D) License shall be issued promptly, within ten (10) days of personal hand-delivery of application, with the exception of privilege licenses and liquor licenses and in cases when the application is not complete or denied.
(E) Department Director shall either issue a license or notify the applicant of denial and include the reason for such denial, in accordance with its decision. Any applicant that is denied a license shall be notified of the denial and such notification will contain the reasons for the denial and outline the applicant's right to appeal the decision as provided in this Title.

3.01.06: APPLICATION AND LICENSE FEES:
(A) APPLICATION FEE: Upon the filing of an application for a business license, the applicant shall pay a nonrefundable application fee. This fee is paid regardless of whether the business license application is approved. The application fee is separate and distinct from the business license fee.

(B) BUSINESS LICENSE FEE SCHEDULE: Once a business license is approved, the business licensee shall pay a business license fee. The business license fee is separate and distinct from the application fee. This fee must be paid prior to the issuance of the license. The business license fees are based upon the classification of the business and/or the number of employees employed by the business.

The application, license, and renewal fees charged pursuant to this Title shall be contained in the fee schedule which shall be maintained by the City Clerk's Office, and amended by resolution upon approval of the Council. For the privilege of doing business in the City, the City shall have the right to set application fees, administrative fees, investigative fees, and any other fees necessary to the administration of this Title.

3.01.07: SPECIAL BUSINESS LICENSE FEES, CONDITIONS, AND WAIVERS FOR CERTAIN BUSINESSES:
(A) PUBLIC UTILITIES:
(1) LICENSE FEES: Every public utility providing service within the City must pay an annual business license fee not later than thirty (30) calendar days after the end of each calendar quarter. The business license fee for each public utility providing service within the City shall be established and/or modified by ordinance of the

Council, and shall not exceed the maximum rate allowed by Nevada law. (ORD 2002-006, ORD 2011-003).

(a) The Business License/Franchise Fee for each public utility providing services within the City shall equal the following percent of the public utility's gross revenue as regulated by NRS 354.59889: (ORD 2011-003)

Telecommunication Companies	4%
Electric Energy Providers	4%
Gas providers	5%
Commercial Mobile Radio Services	3% of gross revenue from the first $15.00 for each line of access for each of the utility's customers located within the City

(2) NOTIFICATION, REVENUE STATEMENT, PAYMENT, PENALTIES, AND INTEREST:

(a) Each public utility to which this Ordinance applies or which derives or intends to derive intrastate revenue from customers located within the City shall, not later than sixty (60) calendar days after the effective date of this Ordinance or thirty (30) calendar days before the public utility begins to provide service to those customers, whichever occurs later, provide to the City:

(1) An acknowledgment that the public utility is operating or intends to operate within the City; and

(2) The date that the public utility began or intends to begin to derive revenue from customers located within the City.

(b) Each public utility to which this Ordinance applies shall, not later than thirty (30) days after the end of each calendar quarter, provide to the City a statement of the amount of revenue the public utility derived during that calendar quarter from service to each of its customers located within the City.

(c) The fee for the utility operator license is payable not later than thirty (30) calendar days after the end of each calendar quarter.

(d) An operator license fee not received or postmarked within thirty (30) calendar days after the end of each calendar quarter shall be delinquent and the public utility shall pay, in addition to the operator license fee, a penalty of one percent (1%) of the delinquent amount per month and interest of one percent (1%) of the delinquent amount per month.

(3) EXISTING FRANCHISE AGREEMENTS NOT ALTERED: This Title does not alter the terms of any existing franchise agreement between the City and a company providing public utility services within the boundaries of the City.

(B) KENNELS: Each business licensee who operates a kennel shall pay, in addition to the foregoing fees, an annual fee of fifty dollars ($50).

(1) NOTICE: Notice of the date, time, and place the Council shall consider the application for a kennel license shall be sent by registered mail or personal

delivery to all adjoining property owners by the Department. The business applicant is responsible for providing the names and addresses of all adjacent property owners to the Department.

(2) CONDITIONS OF LICENSE: The following limitations and requirements shall apply to all kennel licenses:

(a) COMMERCIAL KENNEL LICENSE:

(1) The number of dogs shall be set by the Council, taking into consideration the size and temperament of the dogs and the size of the commercial kennel and the character of the surrounding property.

(2) Every dog over the age of six (6) months shall have a current inoculation against rabies administered by a licensed veterinarian.

(3) Dogs shall have a run of adequate size and escape-proof construction.

(4) The property shall be zoned industrial or commercial.

3.01.08: TERM OF LICENSE, RENEWAL OF LICENSE, AND DELINQUENT LICENSE:

(A) TERM OF LICENSE: All licenses shall be issued for a term of one year unless a provision is specifically made for the issuance of a daily or quarterly license. For the purpose of determining the yearly period, a license issued by the Department between the 1st and 15th days of the month shall be deemed to begin on the first day of the month. A license issued by the Department between the 16th and last day of the month shall be deemed active, but the start date, for renewal purposes, to be on the 1st day of the following month.

(1) A person may request quarterly payment of business license fees. An administrative fee will be assessed in addition to a business license fee.

(B) RENEWAL OF LICENSE:

(1) A licensee shall not be required to complete an application to renew a license, but is required to pay the appropriate license fee.

(2) 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 Council. The Council shall, at its next regular meeting, either grant the renewal, renew with conditions, or deny it. If no such complaints have been received, the Department may issue the renewed license without Council approval.

(3) All businesses licensed under this Title receive a renewal notice before the due date of the next licensing period; however, the failure to notify any licensed business shall not be held to waive the payment of the license fee, and that the actual receipt of such notice is in no case required. The due date shall be the last day of the month of a licensing period.

Failure of any business licensee to apply for a renewal under this Title shall result in an automatic revocation of the license on the expiration date of the license and grace period of thirty (30) days. A licensee whose license has been revoked after expiration of the grace period, and who wishes to continue in business, shall file a new application and any existing balances and penalties due to the City.

(C) CHANGE IN INFORMATION: A business licensee shall inform the Department, on forms provided, when a change of any matter stated in the business licensee's former application has occurred. No additional fee shall be charged for change of information during renewal process.

(D) DELINQUENT LICENSE: Annual business license fees due under this Title shall be considered delinquent if not paid in full on or before the 60th day following the due date. Quarterly business licenses must be renewed within the fifteen (15) calendar days after the expiration date. A postmark shall not be recognized as meeting the receipt requirement. Annual licenses for which fees have not been paid on or before the 60th day following the due date shall be deemed expired. Any such license shall not be reinstated until the license fee, together with a twenty five percent (25%) penalty fee on the balance due, shall have been paid. When the last day of a grace period falls on a Saturday, Sunday, or holiday the license fee will be accepted, without penalty, if received at the designated office on the first working day after such Saturday, Sunday, or holiday.

3.01.09 CHANGE OF LOCATION, CHANGE OF BUSINESS NAME, CHANGE OF CORPORATE OFFICER, AND DUPLICATE LICENSES:

(A) A licensee may change the location of the licensed business from home occupation business to a commercial location or from one commercial location to another by filing a form provided by the Department, which shall approve such transfer if the new location meets all the requirements of this Title, and such applicant pays an administrative fee upon filing such application. The application to change location shall be approved by the building inspector prior to the commencement of business at the new commercial location.

(B) All persons licensed to do business under this Title shall report to the division, on a form to be provided by the Department, any change in business name or change in corporate officers designated in the original business license application within thirty (30) days after such change occurs and pay an administrative fee for such change.

(C) A duplicate license may be issued by the city to replace any license previously issued under this title which has been stolen, lost, defaced, or destroyed provided the licensee requests a duplicate license, provides a supporting sworn statement and pay an applicable fee.

(D) The applicable fees in this section shall be contained in the fee schedule which shall be maintained by the City Clerk’s Office, and amended by resolution upon approval of the Council. For the privilege of doing business in the City, the City shall have the right to set application fees, administrative fees, investigative fees, and any other fees necessary to the administration of this Title.

3.01.10: 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; and
      (b) Under the same business name.
   (2) All enterprises must be owned or operated by the business licensee. If the business licensee complies with the conditions set forth herein, the Council shall issue one license endorsing each specific enterprise engaged in by the business licensee.

(B) Any business licensee issued a license for multiple enterprises shall only be charged one fee. This fee shall be based on the total number of employees for the enterprises. This Section does not affect liquor, gaming, or any other license fees required by the City or County.

3.01.11: CONDITIONS OF LICENSE: In addition to any other conditions imposed by the Department Director or the Council, business licensees must comply with the following conditions:

(A) LICENSE NOT TRANSFERABLE: No license may be assigned or transferred to another person, or location, or may a person other than one named in the license carry on the business specified.

(B) POSSESSION REQUIREMENTS AND POSTING OF LICENSE: Any 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. A person who holds a home occupation business license shall produce the license upon demand of an authorized City official at said residence.

   A person conducting a mobile or out of town business shall have a copy of the City business license in his possession when doing business and to show it upon request by the authorized City official.

(C) COMPLY WITH GOVERNING LAW. Ascertain and comply at all times with all laws and regulations applicable to such licensed business, including, but not limited to, and changes in the Fernley Municipal Code that may be imposed after the issuance of a license.

(D) CEASE BUSINESS. Refrain from operating the licensed business after expiration of the license and any applicable grace periods and during any period the license is revoked or suspended.

(E) NOTICE OF CHANGES. Assure that current and correct name, business address, business phone, and mailing address for the owner of the business are on file with the City.

3.01.12: DENIAL, SUSPENSION, AND REVOCATION OF STANDARD BUSINESS LICENSE; GROUNDS; PROCEDURE: It is expressly declared that the provisions of this section are applicable to any license or permit issued or applied for, or pursuant to any Chapter of this Title. Thus, the provisions of this section are in addition to any grounds for denial, nonrenewal, suspension, limitation, and revocation set forth for specific businesses or trades in other Chapters of this Title.

(A) DENIAL: Any license or permit application made pursuant to the provisions of this Title may be denied for good cause by the Department Director or the Council. The following causes for denial of a license or permit shall include, but not limited to:

(1) The application or any other document is incomplete or contains false, misleading or fraudulent statements;
(2) All application, license, and/or investigation fees are not paid;
(3) Failure to obtain a license, permit or receive approval for required inspections of the premises as required by this Title and compliance with requirements of all other departments or divisions in the City, State or Federal laws and regulations that pertain to the particular license;
(4) The applicant has been subject, in any jurisdiction, to disciplinary action of any kind with respect to the license, or permit to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant to conduct such a business;
(5) The applicant has been convicted of any crime that involves local, State or Federal law or regulation arising out of the operation of a similar business;
(6) The applicant has been convicted of a crime as a result of having deceptive practices upon the public within the last ten (10) years;
(7) The premises on which the business is proposed to be conducted does not satisfy all local, State, or Federal laws or regulations which relate to the activity that is to be licensed;
(8) The applicant is in default on any payments owed to the City;

(B) TERMS FOR SUSPENSION OR REVOCATION: Any business license issued under this Title may be suspended, or revoked by the City, after notice and opportunity to be heard as provided in this Title, for any of the following causes, but not limited to:

(1) Failure to pay business license fees within sixty (60) days of their due date and non-payment of any amounts owed to the City;
(2) Failure to update the business license under the provisions of this Chapter;
(3) Failure to maintain other licenses required by Federal, State, County, or City laws which are necessary to conduct the enterprise endorsed on the license;
(4) Any act or omission by the licensee or his employees and agents, related to the operation of the business licensed, which is a threat to the public health, safety, morals or welfare.
(5) Fraudulent practices or misrepresentations in the operation of the business, or concealment or misrepresentations in procuring this license;
(6) Any violations of the provisions of the City of Fernley Municipal Code.
(7) Any act in the operation of the business which is unlawful or prohibited by Federal, State, County, or City law;

(8) Any other cause that the City through its Department or its Council finds to be just or equitable reason.

(C) SUSPENSION AND REVOCATION OF BUSINESS LICENSE PROCEDURE: 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 Council action on revocation, under the following conditions:

(1) The Department shall notify the business licensee of the violation. The notice shall contain the following information:
   (a) The name and address of the business licensee;
   (b) The violation which has occurred;
   (c) The business licensee has five (5) days, excluding weekends and holidays, from the receipt of the notice to remedy the violation; and
   (d) 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 the following information:
   (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 including the date for revocation hearing and informing business that evidence in opposition to the revocation may be submitted. This notice shall be served upon the business licensee at least forty-eight (48) hours prior to the time specified for hearing. The licensee shall, within forty-eight (48) hours of the date of such mailing, file with the Department Director a written answer to such compliant, under oath.

(D) HEARING OF REVOCATION: In order to revoke a business license under this Title, the Council shall conduct a hearing to determine whether to revoke the license. The Council shall permit any interested party, including the business licensee, to testify or otherwise submit evidence in favor of or opposition to the revocation. The Council 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 Council and enter its order in the minutes. The failure by the licensee to appear at the time of hearing and place designated for the hearing shall, in and or itself, constitute sufficient grounds for revocation of the license. There shall be no reopening or review of the proceedings ever by the Council except when it subsequently appears to the satisfaction of the board that the licensee's failure to appear was due to matter beyond his/her control, and not through negligence on the part of licensee.

(E) NOTICE OF REVOCATION: If the Council revokes the license, the business licensee shall be served notice of revocation following the hearing. If the license is revoked or suspended, no business shall be conducted under that license until such time as an appeal has been heard and the revocation or suspension has been reversed.

3.01.13: INVESTIGATION; ENFORCEMENT:

(A) INVESTIGATION: Any sign or advertisement which is exhibited or published 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.

(B) ENFORCEMENT:

(1) Violators of the provisions of this Title may be charged by complaint and summons or by citation in the municipal court;

(2) A show cause hearing may be held before the Council for a determination of revocation of the business license; and/or

(3) The City may initiate a civil action, as provided by law, including a civil injunction and the recovery of money damages.

3.01.14: WAIVER OF COUNCIL: Upon application to the Council, a business licensee may request that the Council waive any fee or requirement imposed on a business by this title. If the Council finds good cause for the business licensee's request and the waiver would not impair the public health, safety, or welfare, the Council may waive any provision of this Title.

CHAPTER 2: PEDDLERS AND SOLICITORS

3.02.01 DEFINITIONS: For the purposes of this Chapter, unless the context otherwise requires, the following definitions apply:

AGENT: Any person, whether as an employee or independent contractor, authorized to represent any business regulated under this Title.

APPLICANT: Any person who has requested or will request a City business license or permit.

BUSINESS OR DOING BUSINESS: Any business, commercial enterprise, trade, occupation, calling, profession, vocation, or activity engaged in, conducted, carried on by any person, his agent or employee for the purpose of direct or indirect gain, with the principle objective of livelihood and/or profit through repetitive means within the City. This includes, but is not limited to:

(A) Any activity conducted by a person for which such person is required to file with the Internal Revenue Service for the activities; or

(B) The performance of services for compensation that are not normally subject to withholding taxes, including but not limited to, independent contractors and commissioned sales agents.

The terms BUSINESS or DOING BUSINESS do not include activities conducted by, or for the exclusive benefit of, organizations that are certified as tax exempt entities pursuant to 26 U.S.C. § 501(c) or authorized by Nevada State Law as a non-profit organization, including but not limited to organizations operated for religious, charitable, scientific, literary, educational, or fraternal purposes.

CITY: The City of Fernley, a political subdivision of the State of Nevada.

COUNCIL: The City Council of the City of Fernley.

DEPARTMENT: The City of Fernley Business License Division.

PEDDLE OR SOLICIT: Selling, offering for sale or soliciting on the streets, sidewalks or alleys of the City, or by going from dwelling to dwelling unit by foot or by other means of transportation.

PEDDLER OR SOLICITOR: Any individual, regardless of whether a resident of the City, traveling either by foot, automobile, motor vehicle, or any other type of conveyance, from place to place, or from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future.

3.02.02. LICENSE REQUIRED AND EXEMPTIONS: It is unlawful for any solicitor or peddlers defined in section 3.02.01 of this Chapter to engage in such business within

the City without first obtaining a license therefore in compliance with the provisions of this Chapter. This Chapter does not apply to non-profit solicitations.

A holder of a valid, unexpired City business license is not required to obtain a peddler/solicitor license under this Chapter or pay a fee on behalf of its employees with respect to peddling or solicitation activities in furtherance of that business.

3.02.03: APPLICATION AND FEES: Any person who is required to have a license under this Chapter must file an application with the Department and pay the applicable nonrefundable application fee. The application must be made upon forms provided by the Department and shall provide the following information in addition to general business license application requirements:

(A) The name and a description of the business or enterprise which the applicant proposes to engage in or represent;
(B) Permanent home address or local address of the applicant;
(C) The dates on which the applicant desires to peddle or solicit;
(D) A brief description of the nature of the business and the nature of the products or services to be offered; and
(E) Such other information or documentation as the Department may require in order to establish the applicant's suitability and fitness for the approval.

All applicable fees shall be paid upon submitting application to the Department.

3.02.04: LICENSE PROCESS AND ISSUANCE: Upon receipt of such application, applicant shall be referred to the Lyon County Sheriff's Office for submitting fingerprints for the owner and all the agents planning to solicit or peddle. Applicable fingerprinting fees shall be paid at the Lyon County Sheriff's Office.

If, as a result of application review and fingerprinting results, the character and business responsibility of the applicant is found to be satisfactory, the Department shall approve application and issue a license.

License issued under this Title shall include information to identify the licensee and state the specific dates on which the licensee is authorized to operate.

3.02.05: EXHIBITION OF LICENSE: Each person including business owner and his/her agents are required to have an original license and must exhibit license at the request of any resident, prospective customer, Department representative or law enforcement officer.

3.02.06: TERM OF LICENSE: Each peddler/solicitor license issued pursuant to this Chapter is limited to the time period approved by the Department and designated on the license. The minimum time period is seven (7) days. The maximum time period is six (6) month, subject to renewal by the Department.

3.02.07: DUTY OF LAW ENFORCEMENT TO ENFORCE: It shall be the duty of any law enforcement officer of the City to require any individual seen soliciting or canvassing, who is not known by such officer to be duly licensed, to require the production of a solicitor's or peddler's license and to enforce the provisions of this Chapter against any person found to be violating the same.

3.02.08: RECORDS: The Department shall forward a license number to Lyon County Sheriff's Office; the Sheriff shall report to the Department any complaints against any person licensed under the provisions of this Chapter and any conviction for violation of this Chapter. The Department shall keep a record of all such licenses and of such complaints and violations.

3.02.09: LICENSEE RESPONSIBLE FOR ACTS OF EMPLOYEES AND AGENTS: Any person or entity who employs, contracts, or otherwise engages another to conduct soliciting or peddling activities, is responsible for the acts or omissions of his/her employees or agents committed during performance of activities governed by this Chapter. In any suspension, limitation or revocation proceeding, the fact that the distributing service or person who employed, contracted, or engaged another did not have actual knowledge of the violation shall be not be a defense.

3.02.10: GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION: In addition to any grounds provided in this Title, the following shall be grounds for the denial of license applications made under this Chapter, for suspension or revocation:

(A) Fraud, misrepresentation, or false statements contained in any application;
(B) Fraud, misrepresentation, or false statements made in the course of carrying out the business of a solicitor or peddler;
(C) Any violation of this Chapter;
(D) Conducting the business of soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public;
(E)The applicant has committed acts which would constitute a crime involving moral turpitude or has been convicted within the last ten years preceding the date of application of any felony, gross misdemeanor, or a misdemeanor involving a sex offense, trafficking controlled substances, or any violent acts against a person or property.

The Director's disapproval and the reasons for disapproval shall be noted on the application and the applicant shall be notified by mail within fourteen (14) days that his/her application is disapproved and that no license will be issued.

3.02.11: APPEAL: Any individual aggrieved by the action of the Department in the denial of a license shall have the right of appeal to the Council. Applicant shall file a written statement within fourteen (14) days after notice of the action has been mailed to such individual's last known address, setting forth fully the grounds for the appeal. The Council shall set a time for hearing on such appeal and notice of such hearing shall be given to the applicant. The decision and order of the Council on such appeal shall be final and conclusive.

3.02.12: LOCATION RESTRICTIONS: No person engaged in peddling or soliciting shall:

(A) Attempt to peddle or solicit at any dwelling, residence or commercial location where there is a displayed, affixed or exposed to public view sign bearing the words “no soliciting,” or other words of similar import, except pursuant to prior invitation by any individual residing in such dwelling;

(B) Operate in any congested area where the operation might impede the public;

(C) Have any exclusive right to any location upon streets, sidewalks, alleys or public grounds of the City;

3.02.13: HOURS OF SOLICITATION: No person, while conducting the activities of a peddler or solicitor, shall enter upon any private property, knock on doors, ring any bells, or otherwise disturb persons in their residences between the hours of 8:00p.m. through 9:00 a.m.

CHAPTER 3: LIQUOR REGULATIONS AND LICENSES

3.03.01: PURPOSE AND INTENT: The City Council declares that this liquor control chapter is an exercise of the regulatory powers delegated to the Council by the State of Nevada pursuant to Nevada Revised Statutes 266.355.

3.03.02: DEFINITIONS: For the purposes of this Chapter, unless the context otherwise requires, the following definitions apply:

ALCOHOL: A product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

BEER: Alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or similar product, or any combination thereof, in water.

CATERING: A business which:

(A) Prepares food at a licensed location for delivery or service to consumers in the City or at a banquet reception hall located in the City; or

(B) Delivers or serves alcoholic liquors from a licensed location to consumers in the City or at a banquet reception hall located in the City which is operated by the catering business or business that holds a liquor license for a specific location;

CITY: The City of Fernley, a political subdivision of the State of Nevada.

NON-PROFIT OR CHARITABLE ORGANIZATION: An organization, institution, corporation, or association formed for civic purposes, whose donations or receipts received are not used for the private gain of any person, that is exempt from federal income tax pursuant to 26 U.S.C. § 501(c) of the United States Internal Revenue Code, and/or has received from the Nevada Secretary of State a certificate of non-profit corporation, association, or society.

COUNCIL: The City Council of the City of Fernley.

DEPARTMENT: The City of Fernley Business License Division.

ESTABLISHMENT: Any real property including any buildings, improvements, equipment, facilities and parking lots used or maintained in connection with the operation of a business.

LICENSE: Permission granted by the licensing authority to engage in the business for which the license is issued.

LIQUOR: Whiskey, wine, beer, malt liquor, gin, cordials, ethyl alcohol or rum, and any other beverage or substance with an alcoholic content of one-half of one percent or more by volume which is used for beverage purposes.

MINOR: A natural person, male or female, under the age of twenty one (21) years.

RETAIL: The sale of liquor by the package, bottle or drink to consumers.

SPECIAL EVENTS: A specified occurrence for a certain time being not more than 5 days.

WINE: Any alcoholic beverage, other than beer, obtained by fermentation of the natural contents of fruits or other agricultural products containing natural or added sugar, which contains not more than twenty-two percent (22%) of alcohol by volume.

3.03.03: LICENSE REQUIRED, EXCEPTIONS:
The public health, safety, morals and welfare of the inhabitants of the City require the regulation and control of all persons and establishments engaged in the business of alcoholic liquor sales. All such persons and establishments as defined in this Chapter shall be licensed and controlled so as to protect the public health, safety, morals, good order and general welfare of the inhabitants of the City and to safeguard the public.

The right to obtain such license is a privilege and the operation of such alcoholic liquor sales facilities, when authorized by such license, is a privileged business subject to regulations. The license may be revoked for violation of the conditions of this Chapter, the laws of the State of Nevada, other ordinances of the City, or for any other cause deemed sufficient by the Council in the exercise of its sole discretion.

This section does not apply to the following:

A. Private Family: Such alcoholic liquors and beverages may be served by a private family in its home as a part of its family or social life.
B. The use of liquor for sacramental purposes by any duly ordained minister, including liquor used during special occasion parties and social gatherings held on church premises.
C. The use, sale, or dispensing of liquor by any doctor, apothecary or pharmaceutist who uses alcohol or liquor for or in compounding medicine or for medicinal or scientific purposes.
D. The employees of a person who holds a valid, unexpired license pursuant to this Chapter, while acting within the course of his/her employment

3.03.04 CLASSES OF LICENSES AND CONDITIONS FOR SPECIFIC CLASSES OF LICENSES:

(A) The following classes of licenses may be issued to qualified applicants:
    (1) Retail liquor license
    (2) Saloons or Bar Rooms license
    (3) Beer and Wine License
    (4) Liquor Distributor/Wholesales
    (5) Caterers of Liquor license (caterer’s liquor license shall be in addition to any other liquor license held under this chapter)

(6) Special Events license

(B) More than one class: Each person whose activities fall into more than one class of liquor license, as defined in this chapter, must apply for and receive a license for each class applicable before such person can operate in such class.

(C) Liquor license additional: The liquor licenses required by this Chapter shall be in addition to any other licenses required by any person by the City for conducting or carrying on any other business in connection with, or separate from the activities license under this Chapter.

(D) Wholesale licenses, which shall permit the maintenance of a wholesale liquor establishment within the City for sale to licensed retail liquor establishments or licensed wholesalers, but not to consumers or general public and are subject to the following:
(1) The business may not be located in a residential neighborhood.
(2) No wholesale license shall be issued to or be operated by any person who does not possess a valid and effective permit, license, certificate or other authorization from the State entitling such person to import or wholesale alcoholic liquor.
(3) The business must maintain a warehouse and office space sufficient to store at one time either:
(a) a stock of alcohol and/or beer, wine or spirit based products equal to ten percent or more of his annual gross volume of alcohol sales to retailers within this state;
(b) a stock of alcohol whose cost of acquisition is fifty thousand ($50,000) dollars or more;
(c) a stock of beer, wine, and spirit-based products whose acquisition is ten thousand ($10,000) dollars or more;

3.03.05. LICENSE RESTRICTIONS: No license shall be issued to a person:
(A) Who is under the age of twenty one (21) years.

(B) Who has been convicted of a felony or gross misdemeanor within the last 10 years.

(C) Who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, or or has charges pending for such an offense.

(D) Whose license under this Chapter has been revoked for cause.

(E) Who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is issued.

(F) Who illegally resides in the United States.

(G) Who the City Council, after investigation or review of verifiable evidence presented, determines is not a suitable person to receive or hold a license, after due consideration, for the protection of the public health, safety, morals, good order and general welfare of the inhabitants of the City.

(H) Whose place of business is controlled by a manager or agent unless such manager or agent possesses the same qualifications required of an individual licensee.

3.03.06. LICENSE APPLICATION, BACKGROUND INVESTIGATION AND PROCEDURE:

(A) APPLICATION CONTENTS: A liquor license is a privilege and shall not be issued for the operation of any liquor establishment unless the applicant for such license carries the burden of proving suitability to receive and maintain said license.

(1) All applicants wishing to engage in the business of operating a liquor establishment permitted by law shall make application by petition to the City Council for a license of a class desired and shall file an application on forms provided by the Business License Division (Department).

(2) Personal Data: The following personal data shall accompany the application: name and place of residence of applicant, whether or not he is a resident of the United States, and the addresses of all residences during the five (5) years immediately prior to the date of application, the dates and places in which the applicant has held previous liquor licenses, and whether or not he has within ten (10) years, been convicted of felony or for any other crime which would be considered a felony under the laws of the State of Nevada, or gross misdemeanor or misdemeanor involving moral turpitude. If a partnership, the application shall include the names and addresses of all partners.

(3) In the event the applicant is a corporation:

(a) The applicant corporation must be a Nevada Corporation or authorized to do business in Nevada.

(b) The applicant corporation must submit with its application a letter from a duly authorized officer of the corporation designating the person or persons employed by the corporation to manage or operate on site the local establishment to be licensed; or the application must be verified by its president or manager and authorization to apply be enclosed with application. The authorized officer of the corporation who will be managing the establishment will be subject to the background investigation.

(c) The disclosures required to be set out in the application setting forth names and addresses of all officers and directors and the name and address of the person who shall have the management of its business for which or in connection with which a license is desired.

(d) The licensee must inform the Department in writing within sixty (60) days of any changes in the person or persons managing or operating the establishment and holding liquor license. Such new officers may be required to qualify for a license and comply with the requirements as required in this Chapter.

(4) Statement of Understanding: The applicant shall include a statement that if such application is approved and a license issued, it will be accepted by the applicant subject to terms and provisions of this Chapter, and such other rules and regulations as may at any time hereafter be adopted or enacted by resolution or ordinance of the City Council, including an acknowledgement of the power and authority of the City Council, or other authorized representative of the City to enter any store, building or any other place in which such business is being conducted at any time during business hours for the purpose of examining books of account of the business to ascertain the real parties in interest in the business, and all persons having interest in such business, including persons who may have loaned and otherwise advanced money for the operation and conduct of such business.

(5) Documents and additional information which are required: These documents need to be submitted along with application - copy of lease, or evidence of ownership of the location of the business.

(6) Signature and Verification: Application has to be signed and verified by all persons who shall conduct or have interest in the business activities for which a liquor license is required.

(7) Each application must be completed in full and filed with the Department, together with required investigation fees, set up fee and the quarterly liquor license fee for each class of license for which application is made.

(B) BACKGROUND INVESTIGATION, AND CONFIDENTIALITY: No license shall be issued for the operation of any liquor establishment unless the applicant presents a full set of fingerprints that are taken within 30 days. Fingerprinting data will be used to conduct a criminal records check.

Any owner or manager(s) who is actively engaged in the management of a liquor establishment and authorized by the owners to exercise supervision and control of, and to establish policies for, the operation of said business, shall present themselves for fingerprinting.

The Chief of Local Law Enforcement or his designee shall serve as the Investigation Agency of the City. The Investigation Agency shall be required to make a recommendation to the City Council concerning the qualifications of the applicant for a license hereunder.

(1) Application Review: The Investigation Agency will review the application and all related mattes filed therewith, including but not limited to the results of criminal records check to render a determination of a suitability of the applicant to the City Council prior to issuing a liquor license.

City Authorized Representative:

(1) City Authorized Representative shall have the authority to examine, or cause to be examined any applicant for a liquor license or any licensee upon whom notice of revocation or suspension has been issued.

(2) Books and Records examination: City Authorized Representative shall have the right to examine or cause to be examined the book and records of any such applicant or licensee.

Any and all persons required to be fingerprinted under the terms of this Chapter shall be required to answer any and all questions deemed appropriate and necessary by the City Council pertaining to such application, or the fitness of any persons connected as owners, officers, or managers applying for a liquor license.

CONFIDENTIALITY: All fingerprinting required to be taken under the terms of this Chapter and all other information obtained by reason of the fingerprints shall be maintained by the Local Law Enforcement in a confidential file to be opened for inspection only by the City Council and law enforcement officers.

All information other than criminal history information, of a confidential nature supplied under the terms of this Chapter shall be maintained by the Department, in a confidential file, to be opened for inspection only by City Officials and law enforcement officers; provided, however, the applicant may waive the requirements of this subsection and by such waiver permit questioning of the applicant, at any meeting of the City Council, concerning any matters contained in the application or information obtained in the course of an investigation.

(C) LICENSE PROCEDURE: Upon completion of background investigation, City Clerk shall immediately refer the application to the City Council at its next regular meeting, together with the findings and all facts upon which the findings are based. The findings and all facts upon which it is based may be privileged.

In some cases when an application is complete, fees have been paid and Local Law Enforcement recommends approval of the Liquor License after completion of the background investigation, the City Clerk may issue a temporary liquor license for a period not to exceed 30 calendar days, pending final City Council approval.

The City Council may approve or deny the application for any reason outlined in this Chapter. A majority vote is required of all members of the City Council present at the meeting to grant or refuse such application. Such action by the City Council on any application shall be final.

(D)Temporary License on Transfer of Ownership: After an application is made for a liquor license, if such is made in contemplation of the sale of an existing licensed liquor establishment, the City Clerk may, if she/he preliminarily finds that such application or applicants are of good moral character, issue a temporary license for a period of not to exceed hundred eighty (180) days. The application for temporary license upon transfer of ownership will only be considered complete after receipt by the City of all required liquor license and additional documentation, all processing and investigative fees paid, all required documentation evidencing the ownership and management of the applicant entity, and all required documentation evidencing

real and/or personal property ownership rights to the proposed liquor establishment premises.

(E) Adding Applicants: If an applicant is requesting to be added to an existing license, the application form thereof shall be completed and submitted with the investigation fee and application fee.

3.03.07. LICENSEE'S AGREEMENT TO CONFORM TO LAW:
Acceptance of a City liquor license constitutes an agreement on the part of such licensee to be bound by all the regulations of the City as the same now are, or may hereafter be amended or promulgated. It is the sole responsibility of the licensee to keep himself informed of the context of all such rules and regulations.

3.03.08. APPLICATION FEES, REFUND AND WAIVER OF FEES AND LIQUOR LICENSE FEES:

(A) New License Fees: In addition to the business license requirements of Chapter 1 of this Title, each applicant holding a City of Fernley license shall pay an additional liquor license set-up fee at the time of the initial application and quarterly, semi-annual or annual fee for the privilege of selling, dispensing or serving liquor on their premises. The amount of fee required for liquor establishment shall be determined by the class of liquor license required and the schedule of fees to be paid for licenses shall be set by resolution of the City Council.

(B) Investigation Fees: In addition to fees required to accompany the application, the applicant shall be required to pay the City the actual cost incurred by the Local Law Enforcement to complete necessary background investigation as outlined in section 03.03.06 of this Chapter. The City Council may require payment of the supplemental investigative fee in advance as a condition precedent to beginning the investigation.

(C) Refund and Waiver of Fees:

(1) Investigation Fees: If the applicant withdraws application prior to the beginning of investigation, posted deposits shall be returned to applicant. In the event the applicant is denied a license after investigation, charges deposited or paid shall be forfeited and all outstanding costs incurred by the City and the Local Law Enforcement for investigation shall be paid.

(2) New License/Set Up Fees: A new license fee is refundable to the applicant who paid it if the applicant withdraws the application and Department personnel have not started the review process. A refund must be requested in writing and given to the Department. An application for a change in the active manager does not require a new license fee.

The City Council may waive fees for any liquor license granted under this subsection to any charitable organization where, in the discretion of the City Council, such waiver may be a benefit to the public.

(D) Waiver of Investigation Fees: In the event any person is an applicant or member of a group of applicants and such person has been previously investigated by the Local

Law Enforcement and has held a license within a preceding period of one year, an investigation fee may not be required. The City Clerk may waive payment of investigative fees when all parties to an application have been licensed, or approved as stockholders of a corporate license within the past year. At least every five years a new investigation has to be conducted and applicable fees paid.

No investigation is required for a person who holds a current license and is seeking: a transfer of license to another location, an additional license for another location, or an additional class license, if an investigation has been completed.

(E) Payment of Fees: All fees may be paid up to one year in advance; but in no event no fee shall be for less than a full quarter of the year. No refunds of any portion of a license fee paid in advance shall be made nor shall any portion of a fee paid in advance be transferrable.

(F) Payable When and Late Fees: License fees which have not been paid on or before the 15th of the month in which it becomes due shall be increased by a penalty of twenty five percent (25%), which shall be added to the fee and collected with the fee prior to the issuance of any license hereunder. A postmark shall not be recognized as meeting the receipt requirements.

Failure to pay any liquor license fee on or before the 30th day of the month in which it becomes due shall be grounds for revocation of the liquor license.

3.03.09. RENEWAL OF LICENSE: Any licensee may renew his license at the expiration thereof; provided, that he is qualified to receive a license and the premises for which such renewal license is sought are suitable for such purposes; provided, further, that the renewal privilege herein provided for, shall not be construed as a vested right which shall in any case prevent the City Council from decreasing the number of licenses to be issued within the City.

Those licensees whose license is in good standing shall be furnished a renewal form along with the annual bill for liquor licensee by the Department. The licensee must submit a renewal form to the Department on or before the date of expiration of license, confirming the liquor license holders and /or corporate officer(s) responsible for liquor sales and dispensing as well as the person or persons operating the establishment or reporting any changes to holders of liquor licenses or persons operating the establishment.

In addition to any other penalties in this Chapter, failure to submit an annual letter or notify the Department of any changes in the person or persons managing or operating the establishment (specifically those who are holding City's issued liquor license) within sixty (60) days of the change may result in a fine of up to one thousand dollars ($1,000.00).

Failure to Notify, No Waiver: Actual receipt of the billing notice and renewal form by the licensee is not required and the failure of the City to notify any licensee shall in no event be construed or held to be a waiver of the payment of such license fee.

3.03.10. POSTING OF LICENSE; LICENSE CONVERSION; TRANSFER OF LICENSE OR LOCATION: Each license or a copy of a license shall be posted in a conspicuous place in the premises for which it was issued. If the copy of the license is posted in a conspicuous place in the premises, an original copy of the license should be made available for inspection/review upon request by an Authorized City Official.

Any liquor license shall be a purely personal privilege and the sale, assignment or transfer of such license to another person is prohibited. Notwithstanding the foregoing, in the event of death a person duly licensed pursuant to this Chapter, the personal representative for the estate of the deceased licensee may continue to do business with the license previously issued upon notification to the Department of the death of the licensee, identification of the personal representative, payment of all fees, initiating background investigation process and compliance with the requirements of this Chapter for a period not to exceed six months.

No liquor license is convertible into a different type of license or transferrable to a new location unless such conversion or transfer complies with and meets all of the requirements of this Chapter of this Code. A liquor license may be transferred to a location other than the location on the initial license application if an application to change location has been submitted on the approved forms to the Department prior to relocating the business, and approved by the City Council. Location changes are subject to an administrative fee. Once transferred, a liquor license is no longer valid at the former location. The transfer of a license, to a different location, does not require an investigation or the payment of investigation fees.

3.03.11. COMMENCEMENT, NON OPERATIONAL STATUS OF BUSINESS:

(A) Automatic Revocation: in the event the holder of a liquor license shall discontinue business for more than hundred twenty (120) days without the specific approval of the City Council, such license shall be automatically revoked without action by the City Council. Licensee shall notify the Business License Division regarding temporary closure regarding non-operational status.

(B) Nonuse: In the event liquor license is not put to active use within one hundred twenty (120) days after its issuance, or is not kept in actual use for a period of one hundred twenty (120) days, such license shall be subject to automatic revocation; provided, however, the holder of an existing license may apply to the City Council for an additional period of one hundred twenty (120) days in increments but in no event shall the City Council approve any nonoperational status beyond a maximum of two (2) years. A license shall be automatically revoked at the expiration of the time period provided by this Section unless City Council approval has been granted pursuant to this Section. All license fees must be paid notwithstanding the licensee's nonoperational status. The intent of this section is that liquor licenses

shall be put into actual operation and will be revoked if not used within the time prescribed.

3.03.12. CATERER'S ALCOHOLIC BEVERAGE LICENSE: Caterer's alcoholic beverage license is the license issued by the City which permits the sale of beer, wine and liquor by the drink by the caterer licensee for entertainment, special occasion parties and social gatherings catered by the licensee on the premises of the caterer or at locations within the City of Fernley where the licensee is catering entertainment, special occasion parties or social gatherings.

It shall be unlawful for any person to sell any alcoholic beverage in the City as described above in the definition of caterer's alcoholic beverage license, unless such person has first obtained a caterer's alcoholic beverage license attached to the premises of his place. The caterer's alcoholic beverage license shall be in addition to any other alcoholic beverage license held by an individual.

Caterers or other suppliers of alcoholic beverages whose principle place of business is outside the City shall still be required to obtain a caterer's alcoholic beverages license if doing business within the City.

At such events, the licensee may exercise only those privileges authorized by his license and shall comply with all ordinances and provisions of the Code and violation of any such provisions may be grounds for suspension or revocation of the license, as though such violation occurred on the licensed premises.

3.03.13. SPECIAL EVENTS LICENSE: Special event license, which shall permit the retail sale of alcoholic liquor for consumption only on the premises and not for resale in any form at such location and as specified on such license for a period of not more than five days; provided, that the applicant shall have first been approved thereof.

Applicant for a nonprofit special events license shall be a duly chartered nonprofit organization and is subject to the following: only club members, auxiliary members and their bona fide guests are permitted service in such club, applicants for this class of license must present written proof of the organization's non profit status at the time of submission of the application.

3.03.14. ENFORCEMENT POWERS: The City of Fernley representative shall have jurisdiction to investigate and enforce the provisions of this Chapter. The City of Fernley representative shall have all powers which may be necessary or appropriate for a complete and effective exercise of jurisdiction, including, but not limited to, the power to enter and inspect the licensed premises at any time during the business hours of the licensee, and the City of Fernley representative shall have the power to examine books and records of the licensee or applicant. The City of Fernley representative is authorized to request information from a licensee or applicant at any time in furtherance of the exercise of their jurisdiction.

3.03.15. SALES TO MINORS PROHIBITED: It shall be unlawful for any licensee or his agent or employee to sell, give away, or otherwise provide liquor to any person under the age of twenty-one (21) years or to allow or permit any person under the age of twenty-one (21) years to possess or consume liquor in or upon the licensed premises.

Every liquor licensee who sells, serves, gives, or otherwise furnishes liquor shall adopt a policy to prevent a person under twenty one (21) years of age from obtaining an alcoholic beverage from that person and a copy of the policy shall be available at the premises at all times and be known to and available to all employees. The policy shall be available upon request by the Business License Division.

3.03.16. LICENSE SUSPENSION, REVOCATION, LIMITATION AND PENALTIES:

(A) Authority of City Council: The City Council may, upon its own motion, and shall, upon the verified complaint in writing of any person, review the action of any licensee under this Chapter and shall have power for disciplinary action including administrative citation, suspension for such a period of time as they deem advisable, penalize and/or permanently revoke a license or place such restrictions and conditions upon a license as the City Council deem necessary or advisable, for any one of the following acts or omissions:
   (1) The misrepresentation of any material fact by the applicant in obtaining a license under this Chapter including but not limited to knowingly failing to report or conceal from the Department a full disclosure of the names of persons having an interest in the ownership of or having an equitable or beneficial right to the profits under a license in which he has an interest.
   (2) If the licensee whose liquor license has been revoked for cause in any other jurisdiction in the State of Nevada.
   (3) Selling or giving away liquor to any person under the age of 21 years.
   (4) If any manager, bartender, agent, servant, officer or employee of a licensee hereunder violates or causes or permits to be violated any of the provisions of the Chapter while acting in any way in connection with the licensee's business.
   (5) If any one of the licensees named in a license or its agents or employees in connection with the operation of the liquor business violates any of the agreements, conditions, or terms contained in the application for a license, any ordinance of the City or any law of the state regarding the sale, dispensing and serving of liquor or the license issued pursuant hereto.
   (6) If the licensee or any agent or employee thereof makes, causes or permits a sale or sales of any kind of liquor other than authorized by the class of license the licensee holds.

(B) AUTHORITY OF THE CITY CLERK: The failure to make timely payment of either license fees and/or penalties, on or before 30th day of the month in which it becomes due, warrants immediate suspension of a liquor license by the City Clerk and does not require City Council action prior to suspension. A suspension may be agendized upon request by the licensee.

(C) DISCIPLINARY ACTION PROCEDURE: Action may be taken by the City Council to conduct hearings regarding whether a licensee is in violation of this Chapter or applicable law and the action which may be imposed by the City Council pursuant to hearings, which action consists of imposing penalties, suspension or revocation the license.

(1) The City Clerk and/or City Authorized Representative may investigate the conduct of any licensee under this Chapter to determine whether grounds for disciplinary action of a licensee exist.

(2) After the investigation, if it appears that grounds for disciplinary action exists, the City Clerk shall issue and cause to be served on the licensee a Notice of Hearing why disciplinary action should not be taken, and said order shall contain a statement directing the licensee or his representative to appear before the City Council at a time and place set therein, a brief statement of the grounds for disciplinary action and a statement that the licensee shall have the opportunity to be heard, present witnesses and confront any witnessed against him. Service on the licensee shall be made by personally delivering a copy of the order or by mailing a copy of the order by registered mail with return receipt to the place of business of the licensee, which is specified on the license.

(3) Conduct Hearing: Decision: At the hearing, the licensee and the complainant, if there is one, may be presented by attorneys, present testimony, and cross-examine witnesses. At the same meeting or at its next regular scheduled meeting, the City Council must render its decision as to disciplinary action and give notice thereof to the licensee. A majority of City Council members present at the hearing must agree in order to direct a disciplinary action, which could include but not limited to: administrative penalty as described in this Section, suspend the license for such as period of time as the City Council deems advisable, place such restrictions upon the license, the licensee and/or the licensee's place of business as the City Council deems advisable or revoke a license.

(D) ADMINISTRATIVE PENALTIES may be imposed upon a licensee by the City Clerk for criminal citations issued within any twelve (12) month period that are related to the sale and dispensing of liquor at the licensee's establishment or violations of the provisions of this Chapter.

(1) First offense, if the person violating the criminal statute is issued a citation by Local Law Enforcement, Local Law Enforcement shall notify the Business License Division of the name of the person to whom citation was issued and the location, date and time of the offense. The holder of the liquor license for the location at which the criminal citation was issued will be issued a warning by the City Clerk and/or the City's Authorized Representative and will be notified by the Division within five business days from the time the information is received from Local Law Enforcement regarding the warning. Applicants may be asked to provide verifiable proof that preventative measures have been taken and efforts have been made to prevent future violations.

(2) Second offense, if the person violating the criminal statute is issued a citation by the Local Law Enforcement, the Local Law Enforcement shall notify the Business

License Division of the name of the person to whom citation was issued and the location, date and time of the offense. The holder of the liquor license for the location at which the criminal citation was issued will be notified within five business days from the time information is received from the Local Law Enforcement by registered mail or by personal service of the date and time of occurrence and the name of the person to whom a citation was issued for violating a criminal statute. The City Clerk and/or Authorized City Representative may issue an administrative citation with a fine of up to $500.00 for a second offense to the holder of the liquor license and require mandatory alcohol server training for the holder and his agents and employees within three months of hearing.

(3) Third offense, if the person violating the criminal statute is issued a citation by the Local Law Enforcement, the Local Law Enforcement shall notify the Business License Division of the name of the person to whom a citation was issued and the location, date and time of the offense. The holder of the liquor license will be notified within five business days by registered mail, or by personal service of the date and time of occurrence and the name of the person to whom a citation was issued for violating a criminal statute. The City Clerk and/or Authorized City Representative may issue an administrative citation with the fine up to $1,500.00 for a third offense to the holder of the liquor license and the City Clerk may agendize Hearing for the City Council review of violations, which may result in possible suspension or revocation of the liquor license.

(4) Emergency suspension: If the person violating the criminal statute has been issued four or more criminal citations within an twelve (12) month period related to sale of liquor at the licensed premises, City Clerk or his/her designee may suspend the liquor license of the license holder until the next meeting of the City Council pursuant to the provisions of Section 03.03.17.

3.03.17. EMERGENCY SUSPENSION: Notwithstanding any of the provisions of this Chapter, the City Clerk or an Authorized City Representative may without prior notice suspend a license if four or more criminal citations are issued within one year period related to the sale of liquor at the licensed premises or when it is determined that the continued operation of the licensed premises constitutes a clear and immediate threat to the health, safety and welfare of the residents of City of Fernley.

When a suspension occurs pursuant to this Section, the suspension shall remain in effect until the next meeting of the City Council, subject to the requirements of Chapter 241 of the Nevada Revised Statutes.

If a license is suspended, the City Clerk shall send a written order of suspension, certified mail return receipt requested, within three business days of the suspension to the licensee at the mailing address listed on the liquor license or shall deliver the written order of suspension by personal service. The order of suspension must set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating the action. The order must be posted in a conspicuous place at the licensed premises within one business day of issuance.

3.03.18. REINSTATEMENT: A license which has been automatically revoked because a licensee has not complied with the quarterly or annual license fee provisions of this section or because of nonoperational status, may be reinstated by the City Clerk if, not later than sixty (60) days following the date license was automatically revoked, the licensee pays to the division: the delinquent amount and unpaid quarterly, semiannual or yearly license fee, all late payments, penalties that have accrued pursuant to the provisions of the Section 03.03.08. of this Chapter, and a two hundred fifty ($250.00) dollars license reinstatement assessment.

Upon payment of the delinquent license fee amount, all late penalties and the reinstatement assessment, the City Clerk shall reinstate the revoked license. Upon such reinstatement of the license, the licensee shall be allowed to reengage in the sale of alcoholic beverages at the location to which the license applies.

3.03.19. APPLICATION OF OTHER ORDINANCES: The terms and condition of this Chapter are intended to be applied in conjunction with all other ordinances of the City and State requirements for the protection of the public health, safety, morals and welfare. The fact that such ordinances or State requirements are not specifically referred to in this Chapter does not preclude their application to liquor licenses.

3.03.20. LICENSEE RESPONSIBLE FOR THE ACTS OF EMPLOYEES: Every licensee shall be responsible for the acts of his employees and agents committed while on the licensed premises and during the course and scope of employment. Every licensee shall accordingly use adequate care in the selection of his employees and agents. In any license suspension, limitation or revocation proceedings, the fact that the licensee did not have actual knowledge of the events complained of shall be no defense and every licensee accepts his license subject to said condition.

3.03.21. VIOLATION; PENALTY: Any licensee and/or business owner violating any of the terms, conditions or provisions of this Chapter shall be deemed guilty of a misdemeanor. Upon conviction thereof such person shall be punished by a fine not to exceed the maximum allowable under Nevada Revised Statutes, or by imprisonment for a term not to exceed six (6) months, or by both such fine and imprisonment. Such conviction shall also subject the licensee to have his license revoked. Thereafter, any person adjudged guilty of a violation of this Chapter or any of the terms, condition, and provisions thereof may, in the discretion of the City Council, be denied a license.

CHAPTER 4: CHILD CARE

3.04.01: LICENSE REQUIRED –NON QUALIFIED PERSONS DESCRIBED: The public health, safety, morals and welfare of the inhabitants of the City require the regulation and control of businesses engaged in the operation of child care facilities. All establishments where care for children is given, as hereinafter defined in this Chapter, shall be licensed and so operated and controlled as to protect the public health, safety, morals, good order and general welfare of the inhabitants of the City, and to safeguard the public. The purpose of this Chapter is to provide some screening of persons working in such facilities. This applies to each officer or employee physically present at any child care facility when children are present.

It is further found and declared that the right to obtain such license is a privilege and that the operation of a child care facility, when authorized by such license, is a privileged business subject to regulation. In conformance with the policy of this Chapter, the following persons are not qualified to hold a license under the provisions of this Chapter.

(A) a person who is under the age of eighteen (18) years;

(B) a person who is not a citizen of the United States or a legal alien in the United States;

(C) if documented and verifiable evidence is made available or presented to the License Division that would cause a reasonable person to believe a person does not possess or does not have a reputation for possessing a good moral character;

(D) a person who has been convicted of a crime involving moral turpitude, abuse or neglect of child, sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or promoting or using a minor in producing pornography or any other sexually related crime, or any felony involving the use of firearm or other deadly weapon, or a violation of any federal or state law regulating the possession, distribution or use of any controlled substance or a dangerous drug as defined in NRS 454;

(E) a person who the City Council shall determine is not a suitable person to receive or hold a license, after due consideration for the protection of the public health, safety, morals, good order and general welfare of the inhabitants of the City;

(F) a person who makes application for a license whose child care environment is such that it would not be conducive to the safety and welfare of children. Factors for disqualification shall include alcoholism, use of controlled substances, serious and prolonged illness, violent behavior, physical or mental impairment, pending criminal charges, conviction of any crime listed in the subsection (d) of this section, or a finding of unsuitability by the City Council as provided in

subsection (e) of this section, by employees, volunteers, owners, partners, corporate officers, directors, or persons living in or frequently visiting the site of the facility;

(G) if the applicant is a corporation, limited liability company, partnership or association, each owner, member, partner, associate, corporate officer or facility director must be found suitable to hold a license by applying for a license, undergoing a background investigation and found to be free from all of the disqualifying factors listed in this section;

3.04.02: DEFINITIONS: For the purposes of this Chapter, unless the context otherwise requires, the following definitions apply:

CHILD CARE FACILITY: An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight to one or more children under sixteen years of age, if compensation is received for the care of any of those children.

A child care facility does not include:

(A) The home of a natural parent or guardian, foster home (as defined in NRS 424), or maternity home; or
(B) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption, or marriage to the person operating the facility;
(C) A home in which a person provides care for the children of a friend or neighbor for not more than four weeks if the person who provides the care does not regularly engage in that activity;

HOME CHILD CARE: Any family dwelling in which the licensee regularly provides care, without the presence of parents, for one but not more than four children.

Home Child Care is allowed in a rental facility as long as written notice is provided to the landlord 15 days prior to starting child care business. Proof of written notice provided to landlord needs to be attached to application submitted to License Division for child care business license. Home Child Care is also allowed at apartment buildings and multi housing complexes as long as written notice is provided to the landlord 15 days prior to starting child care business. The licensee is allowed to conduct the child care business on the second story of a facility or residence if there is no child under the age of three years old being supervised.

GROUP CHILD CARE: A facility in which the licensee regularly provides care for at least five but not more than twelve children.

CHILD CARE CENTER: A facility in which the licensee regularly provides care for more than twelve children.

CHURCH NURSERY: A facility which provides care for ten (10) or more children under age sixteen (16) years during the whole or any part of the day. If church nursery falls under the non-profit status and sufficient proof is provided, license fees will be waived by the Licensing Division, but license application, and all necessary inspections should be completed.

3.04.03: ENFORCEMENT AGENCY, VISITATION, INSPECTION:

The Business License Division of the City of Fernley is designated as the Department of the City which shall enforce the rules, regulations and standards for the administration of the child care facilities as prescribed by the City Council and this Chapter.

The rules and regulations prescribed by the City Council shall provide for the safety, health, welfare and education of the children and shall provide for such visitations or inspections by appropriate authorities as may be necessary to obtain compliance with the standards prescribed by the City Council. All facilities operating under a license from the City shall be open to inspection by the proper authorities of the City at any and all times.

3.04.04: LICENSE APPLICATION, INVESTIGATION AND LICENSE PROCESS:

Except as provided herein, no home child care, group child care or childcare facility, person, association, corporation, institution or agency shall provide care and supervision for one or more children under sixteen (16) years of age in lieu of care and supervision ordinarily provided by parents in their own homes, for the whole or any part of a day, with charge, without having in full force and effect a license issued by or under the authority of the City Council. Nothing in this Chapter shall apply to care given to children by or in the homes of parents, legal guardians, or relatives, or as part of the program of an educational institution regulated by the Board of Education of the State of Nevada.

(A) Applicants for a home child care license shall pay an investigation fee for each applicant and each person over age of eighteen (18) residing at the residence where child care will be provided to the City at the time of application. License Division Staff will take fingerprints or applicant can bring a fingerprint card from other acceptable agencies including but not limited to the Lyon County Sheriff's Office. Fingerprint checks will be completed every five years. All other child care facilities should conduct a full background investigation as required by State Bureau of Services for Child Care and Nevada Revised Statutes.

The home child care primary licensee may add a family member, employee or another person that resides at the child care business that will be providing child care services to the child care business license, on the condition that the listed person is fingerprinted, and a background investigation is completed. The listed person will not be allowed to provide care or allowed to be added to the license until a background check is completed and the listed person passes the background check. The License Division Staff will notify the applicant/licensee within 15 days if the investigation indicates that

the applicant, employee or the person providing care listed has failed to pass the background check.

(B) The application for a license shall be in a form prescribed by the Department and shall be made in person. The license shall state to whom the license is issued, the particular premises where the children are to be cared for, and the number of children that may be cared for at any one time. The application shall require the applicant to list any and all previous arrests, convictions or pending litigation, except minor traffic citations for the primary licensee, and a list of all other persons residing at the residence where child care will be provided.

(C) No license or permit shall be issued until the location of the child care facility has been approved by the health department, the fire department, and the City building department, and the background check is complete and it is determined that the applicant has not been convicted of any crime listed in section 3.04.01. Home child care facilities will be exempt from health department inspections.

At the time of original application, the child care facility shall be inspected and approved by the fire department. Thereafter, at least annually, the fire department shall inspect the child care facility (home child care facilities will be exempt from annul fire inspection) to ensure that fire standards are being met and maintained. Reports of inspections must be kept on file with parental access in the facility by the child care business owner for a minimum of two years after the date of inspection.

(D) All licenses must be obtained at the office of the License Division in the manner provided for other City licenses, upon the payment of the required license fees and upon compliance with this Chapter. Applicant cannot conduct business and take care of the children until investigation is complete for primary licensee and any other persons over age eighteen (18) residing in the residence where the child care will be provided. The License Division will notify applicant and will issue a license once the investigation is complete, and it is determined that the applicant and any other persons listed in the application over age eighteen (18) residing where the child care will be provided has not been convicted of any crime involving but not limited to child abuse or neglect, crime involving physical harm to another person nor be a perpetrator of substantiated child abuse or neglect and other crimes listed in Section 3.04.01.

(E) A license issued by the City shall be for one (1) year. Each license form will contain the name of each person authorized to operate the facility, the location of the facility, the number of children for whom care may be provided pursuant to the license and the nature of child care services which may be provided. Sole supervision for children in home child care is restricted to only licensed provider and /or providers indicated on the license. Children under age 18 are not allowed to take care of other children in the facility or personal residence for home child care. Family members are not allowed to provide care for children in home child care unless fingerprinted and background investigation is completed and family member is listed on the business license along with the primary owner of the home child care.

In accepting children for care, the home child care and child care facilities must keep within the limits of the license issued by the City.

3.04.05: LICENSE FEES:

Annual license fees in the different child care categories shall be required and shall be paid prior to issuance of a license. License fee, application fee and renewal fees charged pursuant to this Title shall be contained in the fee schedule which shall be maintained by the City Clerk's Office, and amended by resolution upon approval of the City Council.

Any child care facility, upon proof that such facility operates on a nonprofit basis, may have its license fee waived by the Department Director.

3.04.06: LICENSE DISPLAY, LICENSE NON TRANSFERRABLE:

Each current license issued by the City shall be displayed in a prominent place in the child care facility.

Any license issued under the provisions of this Chapter shall not be transferable by the licensee to any other person or entity and shall be valid only for the particular premises described therein and the type(s) of facility and number of children for which it is issued.

3.04.07: INSPECTION, INVESTIGATION OF VIOLATIONS AND LICENSE SUSPENSION AND REVOCATION:

(A) INSPECTION: Inspections of any buildings or premises of a child care facility may be unannounced if the License Division have reason to believe the licensee of a facility is not meeting the requirements of this Chapter.

In conducting inspections and investigations, the officer may call upon agencies for assistance. The licensee or applicant shall cooperate with the person conducting the investigation by providing access to the buildings, records and staff of the facility. Failure or refusal of the licensee to submit to reasonable investigations or inspections by the License Division of the City or City representative, Bureau of Services for Child Care, health or City building officials would be grounds for immediate suspension of a license and will result in a possible revocation as set up in Chapter 1 (General Business License Provisions), Section 3.01.11 of Business License Regulations.

On confirmation of the operation of an unlicensed operator of a facility, the License Division Staff shall investigate and attempt to license the operator of the facility or prosecute the violation.

(B) INVESTIGATION: Whenever the License Division staff has reason to believe that a child care facility is operating without a license, not conforming to the conditions of its

license and/or is in violation of county, state or federal laws or regulations governing child care facilities, or that any situation may exist that may jeopardize the welfare of the children cared for at the child care facility, an investigation and/or inspection may be conducted. City representatives shall have the authority to inspect the premises where the violation or dangerous condition is alleged to occur and to conduct such other investigations as are necessary and as listed in Section 3.04.07. The licensee or applicant shall cooperate with the persons conducting the investigation by providing access to the building, records and staff of the facility.

(C) SUSPENSION AND REVOCATION: The failure or refusal of any licensee to comply with any provisions of this Chapter, other applicable provisions of this code or state law, shall be sufficient cause for the suspension, revocation or discipline of such licensee as provided in Chapter 1(General Business License Provisions), Section 3.01.11 of Business License Regulations.

Should someone during the time a person holds a license be convicted of a crime as provided in Section 03.04.01, the child care business license holder must report the conviction within 72 hours to the License Division. Failure to notify the License Division would be grounds for a license suspension and possible revocation as provided in Chapter 1(General Business License Provisions), Section 3.01.11 of Business License.

3.04.08: ADVERTISING:

It is unlawful to publicly advertise in any manner a child care facility without first having obtained an appropriate child care license as provided in this Chapter. All advertising by a licensee of a facility must specify the type of facility for which it is licensed, and must not mislead the public regarding regular programs and services offered by the licensee.

3.04.09: PENALTY FOR VIOLATION:

Any person violating any of the provisions of this Chapter or the regulations adopted hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for a term of not more than six months, or by any combination of such fine and imprisonment.

TITLE 4. REVENUE AND TAXATION

CHAPTER 1: RESIDENTIAL CONSTRUCTION TAX

4.01.01: ESTABLISHMENT OF RESIDENTIAL CONSTRUCTION TAX: Pursuant to NRS 278.497 to 278.4987, inclusive, the Council hereby adopts the Residential Construction Tax, hereinafter "RCT".

(A) APPLICABILITY: The RCT shall apply to all new residential dwelling units, apartment houses and development of mobile home lots. The RCT shall not apply to reconstruction or replacement.

(B) PURPOSE: The purpose of the RCT is to raise revenue to enable the City of Fernley to provide neighborhood parks and facilities for parks which are required by the residents of those apartment houses, mobile homes and residences. The RCT shall be used in a manner consistent with the City of Fernley Park and Recreation plan for:

(1) Park facilities including turf, trees, irrigation, playground apparatus, playing fields, areas to be used for organized amateur sports, play areas, picnic areas, horseshoe pits and other recreational equipment or appurtenances designed to serve the natural persons, families and small groups from the neighborhood from which the tax was collected; or

(2) The acquisition, improvement or expansion of park sites not exceeding 25 acres designed to serve the recreational needs and outdoor needs of natural persons, families and small groups.

(C) RATES: The RTC is set at the following rates:

(1) RESIDENTIAL DWELLING UNITS: 1% of the valuation of the building permit issued based on the City's Valuation Data Table, or $100 per dwelling unit, whichever is less;

(2) APARTMENT HOUSES: 1% of the valuation of the building permit issued based on the City's Valuation Data Table, or $100 per dwelling unit, whichever is less;

(3) MOBILE HOME LOTS: 80% of the average RCT paid per residential dwelling unit during the preceding calendar year. The rage during the first year of implementation of this Ordinance shall be $800.

(D) COLLECTION OF FEES: The RCT shall be collected at the time of issuance of a building permit or mobile home permit. Each fee shall be placed in a special, interest-bearing fund to be used specifically for the purposes defined in section B.

(E) ESTABLISHMENT OF PARK DISTRICTS: The City shall not be divided; any and all funds collected shall be done so into a collective account for the mutual benefit to all neighborhood parks, potential parks, facilities for parks; including turf, trees, irrigation, playground apparatus, playing fields, areas to be used for organized amateur sports, picnic areas, horseshoe pits and other recreational equipment.

(F) REFUND FOR UNUSED RCT: The RCT shall be used within five (5) years after the date of which 75% of residential dwelling units authorized within that subdivision or development first became occupied. The money paid by the subdivider or developer, which has not been used within that time, together with interest at the rate at which the City has invested the money, shall be refunded to the owner of the lots in the subdivision or development at the time of reversion on a pro-rata share. (ORD 2003-001 ORD 2011-004)

CHAPTER 2: TRANSIENT LODGING TAX

4.02.01: DEFINITIONS: The definitions stated shall apply to this chapter unless the context requires otherwise.

CITY: City of Fernley, Lyon County, State of Nevada.

LESSEE: Any person renting accommodations from a licensee.

LICENSEE: The person, partnership, firm, corporation or other body corporate operating a rental business.

OCCUPANCY: The use or possession, or the right to the use or possession of any sleeping room/space or portion thereof, in transient lodging for dwelling, lodging, or sleeping purposes.

OCCUPANT: Any person who, for rent, uses, possesses or has the right to possess any sleeping room/space in transient lodging.

PACKAGE: Any aggregation of rights to room(s), food, refreshments, merchandise, entertainment, services, and/or other items grouped as a single unit and sold for a single price.

PERMANENT RESIDENT: Any individual occupant who has or shall have the right of occupancy for the same sleeping room/space in transient lodging for thirty-one consecutive days or more.

PERSON: Corporations, firms, partnership, associations and individuals, and also includes executors, administrators, trustees, receivers or other representatives appointed according to law.

RENT: The amount charged for a sleeping room/space in transient lodging, but does not include the amount charged for any food or beverage service or for personal services rendered to the occupant, such as but not limited to concierge services, clothes cleaning services, massage, or physician services.

RENTAL BUSINESS AND ROOM:

1. The term "rental business" means the operation of any hotel, motel, auto court, motor court, lodge, lodging house, apartment, apartment house, apartment house hotel, rooming house, guest house, trailer court, trailer park, tourist camp, ranch resort, guest ranch, cabin or other accommodation having four (4) or more rooms for rental.
2. "Room," "rooms," and "room rentals" mean any accommodation rented by the operator of any facility described in the definition of "rental business."

RENTAL BUSINESS: The operation of a premises kept as, used as, maintained as, or held out to the public to be, a place where sleeping, rooming or camping accommodations are furnished to the transient public, whether with or without meals, and includes any hotel, motel, auto court, motor lodge, lodge, lodging house, ranch resort, resort, dude ranch, bed and breakfast, inn, rooming house, guest house, tourist camp, recreational vehicle park, camper court, camper park, cabin, tent or other tourist or transient (meaning nonpermanent) lodging accommodations having three or more rooms, spaces or other units for rental, and shall be deemed to include a lodging house or rooming house or other premises where transient (meaning nonpermanent) trade is solicited, whether by advertising or otherwise.

TRANSIENT GUEST: Any person who has or shall have the right of occupancy to any sleeping room/space in transient lodging for thirty consecutive days or less.

TRANSIENT LODGING: Any facility, structure, or portion of any structure which is occupied or intended or designed for occupancy primarily by transient guests who pay rent for dwelling, lodging, or sleeping purposes, and includes any hotel, resort hotel, condo hotel, motel, residential hotel or motel, time-share project, vacation trailer park, campground, park for recreational vehicles, and any other similar structure, facility, or portion thereof.

TRANSIENT LODGING TAXES: All taxes levied pursuant to this chapter.

“TRANSIENT LODGING TAX” is also known as "ROOM TAX."

4.02.02: TAX ON TRANSIENT LODGING: There is hereby fixed and imposed on every licensee operating a transient lodging rental business within the city a transient lodging tax in the total amount of nine percent (9%) to be collected as follows (ORD 2010-013):

Nine percent (9%) of the gross income actually received, excluding the lodging tax, by each licensee for transient lodging rentals. Complimentary transient lodging (transient lodging which is provided at no cost to the occupant) is nontaxable. To be considered complimentary transient lodging, the transient lodging must be provided on an individual basis and not as part of any established package, advertised or otherwise, which includes other products or services. Transient lodging included in promotional packages is taxable. The taxable amount for such transient lodging is computed by obtaining the percentage that the transient lodging rackrate bears to the retail value of the package and multiplying that percentage by the package cost to the occupant, or the actual amount charged for the transient lodging, whichever is greater.

Example: Transient lodging with an established rack rate of fifty dollars ($50.00) is included in the following package, which is sold for forty dollars ($40.00):

Food credit	$ 10 .00
Coins	$ 10 .00
Show or event ticket	$ 20 .00
Drink tokens	$ 10 .00
Rack rate	$ 50 .00
Retail value of package	$100 .00

The rack rate equals fifty percent (50%) of the retail value of the package. Therefore, fifty percent (50%) of the package cost, or twenty dollars ($20.00), must be allocated to transient lodging and included in taxable revenue.

4.02.03: LICENSE REQUIRED:

A. It shall be unlawful for any person, either for himself or for another person, to commence or to carry on any transient lodging rental business without first having procured a license from the City Clerk so to do;

B. The City Clerk shall, upon receipt of an application for a license, issue a license to such applicant who shall keep the same posted in his place of business in a conspicuous place.

4.02.04: EXEMPTIONS AND EXCEPTIONS: There shall be, and hereby is, exempted from the license tax on transient lodging:

A. Rent paid for the use or occupancy of the same sleeping room/space by the same person after the thirtieth consecutive day of occupancy. Such persons are deemed to be permanent residents after the thirtieth consecutive day of occupancy;

B. Rent paid directly by the federal government of the United States, the state of Nevada, a federally-chartered credit union, the American Red Cross, or foreign diplomats properly registered with the State Department of the United States;

C. Complimentary rooms wherein there is no rent paid to the operator in conjunction with the occupancy;

D. The cost of or rent paid for a room in transient lodging that is not used for sleeping, such as a meeting or storage room.

4.02.05: TRANSIENT LODGING TAX TO BE COLLECTED FROM LESSEE: Each licensee is, and shall be, required to add the amount of the transient lodging tax onto the amount of the transient lodging rentals due from each lessee. The amount of the tax shall be displayed separately from the price of the transient lodging rent on the registration card or other record of the licensee.

4.02.06: DISPLAY OF NOTICE: Each licensee shall prominently display in each room, space or other accommodation rented or at the option of the licensee, in the lobby at or in the immediate vicinity of the registration desk, a sign reading substantially as follows (ORD 2010-003):

NOTICE
This business is required by law to collect a Nine Percent (9 %) transient lodging tax on any rental of transient lodging of less than thirty (30) days.
The Management

4.02.07: LICENSES: Licenses required by this chapter shall be issued by the City Clerk. Such licenses may be issued by the City Clerk on an annual calendar year basis; All licenses issued shall be valid for the period of time specified in such license. No licenses issued hereunder shall be transferable. There shall be no additional charge to the business license fee made to the licensee for any license issued hereunder.

4:02.08: AUTHORITY TO COLLECT TAX: The City Clerk is hereby authorized and empowered to collect the proceeds of this transient lodging tax, together with any and all interest and penalties in connection therewith, and to enforce by all appropriate and lawful means the provisions of this chapter, and to bring suit therefore as well as to proceed by any appropriate criminal action. The City Clerk is also hereby authorized and empowered to collect information related to daily occupancy and average daily rate; however, such information shall be deemed confidential pursuant to Nevada Revised Statutes section 268.490 (records; confidentiality).

4.02.09: PAYMENT OF TAX, INTEREST AND PENALTIES: Every licensee shall pay the transient lodging tax to the city clerk on or before the tenth day of the month when such tax shall accrue. Payment of the transient lodging tax shall become delinquent on the sixteenth day of the month. Such tax becomes payable to the City Clerk by the licensee pursuant hereto.

4.02.10: RECEIPT OF PAYMENT: Payments by hand-delivery to the City Clerk or by metered mail must be received by the City Clerk on or before the final date allowed for payment in order to avoid penalties being assessed. A payment postmarked by the U.S. Postal Service on or before the final due date shall be considered to be timely payment and no penalty shall be incurred because it is actually received by the City Clerk after the payment due date.

4.02.11: FAILURE TO FILE TAX REPORT OR RETURN--PENALTY.

A. It is unlawful for any licensee to fail, neglect or refuse to file any monthly report or return required by the City Clerk, whether or not said licensee shall have paid over the taxes due to the City Clerk and whether or not there shall have been any taxes due the City Clerk.

over the taxes due to the City Clerk and whether or not there shall have been any taxes due the City Clerk.

B. In the event of any such failure, neglect or refusal to file such report or return on the 10th day of each month the licensee will be granted a grace period until the twentieth day of the month. If the licensee shall not comply with the requirement to file within the ten day grace period, he shall pay a penalty of one hundred dollars for the first month for which no such report or return was filed. (ORD 2011-009)

C. In the event of any such failure, neglect or refusal which shall continue for a second month, the licensee shall pay an additional two hundred fifty dollars for the second month and for each month thereafter until such report or return is filed and taxes paid.

D. In the event of any such failure, neglect or refusal which shall continue for a third month, the City Council shall give notice to said licensee to appear at a time and place certain to show cause why his rental business license should not be revoked for such failure, neglect or refusal, the notice thereof to be given by certified mail to the address listed on the license and said notice to be posted with the United States Post Office at least fifteen days prior to the date of the hearing.

E. Payment of the penalty does not relieve the licensee from the duty to collect and pay over the accommodations tax as provided in this chapter.

4.02.12: EXAMINATION OF BOOKS AND RECORDS: The City Clerk and his duly authorized agent are empowered to examine and audit the books, papers and records of any licensee or person operating a transient lodging rental business and to make investigations in connection therewith.

4.02.13: RECORDS TO BE KEPT BY OPERATOR OF TRANSIENT LODGING.

A. Each operator shall maintain for a period of at least three years, daily records and monthly summaries that properly reflect the following minimum information:
   1. Total rooms available and occupied;
   2. Total rental revenue;
   3. Total rental revenue that is not subject to the taxes and documentation to support such exemptions;
   4. Guest folios or registration cards, including at a minimum, the occupant's name, room number, dates of occupancy; rent and taxes collected;
   5. Total taxes collected as imposed by this chapter;
   6. The number and dollar value of nonrevenue or complimentary rooms; and
   7. The number of rooms included in package or promotional offerings, the total dollar value of the package, and the total dollar value allocated to room charges.

B. Acceptable methods of maintaining the above required information include guest folios or registration cards, daily transaction reports, general ledgers, cash journals, and similarly accepted books of accounting maintained by a reasonable business person. In addition, operators may be required to provide copies of bank statements, financial statements (audited, if available) prepared by their independent accountant, tax returns and similar documents that can be used to support rental revenue and exemptions.

C. The calculation used to determine the cost of any package offered to include the value assigned to each component of the package.

D. Each and every operator shall make the records noted in this section available during business hours for audit by the City Clerk or his designee for the collection of the taxes imposed by this chapter.

4.02.14: RECORDS TO BE KEPT BY ADMINISTRATOR--CONFIDENTIAL. The City Clerk will keep proper records of the transient lodging taxes herein fixed and imposed which become due and which are collected, including, without limiting the generality of the foregoing, records of delinquent taxes, interest thereon and penalties there from. These records shall be deemed confidential and shall not be revealed in whole or in part to anyone except in the necessary administration of this chapter or as otherwise provided by law.

4.02.15: FORMS AND COSTS: The City Clerk is hereby empowered and authorized to designate the form of and have prepared or printed all stationery, supplies, records, notices, receipts, licenses and other forms that the city clerk deems necessary or advisable in connection with the collection, administration and disbursement of the proceeds of this transient lodging tax, and to obtain all supplies, records and other property and equipment deemed necessary by the City Clerk in connection with the collection, administration, use and disbursement of the said transient lodging tax proceeds. All costs, expenses, charges and debts incurred by the City, or by the City Clerk under the provisions of this chapter, in connection with the imposition, collection, administration, use and disbursement of this transient lodging tax and the proceeds thereof shall be paid out of the park and recreational fund provided for in this chapter.

4.02.16: ALLOCATION AND USE OF TRANSIENT LODGING TAX FUNDS: The transient lodging tax in the total amount of nine percent (9%) of the gross income actually received, excluding the lodging tax, by each licensee for transient lodging rentals pursuant to this chapter shall be allocated and used by the City on the following percentages under the following categories. The transient lodging tax allocation shall be reviewed annually by the City Council:

A. One percent (1%) of the transient lodging tax shall be distributed as follows:
   1. Three-eighths ($^3/_8$) shall be paid to the department of taxation for deposit with the state treasurer for credit to the fund for the promotion of tourism.

2. Five-eighths ($^5/_8$) shall be deposited with Lyon County to be used to advertise the resources of Lyon County and City of Fernley related to tourism, including available accommodations, transportation, entertainment, natural resources and climate, and to promote special events related thereto.

B. The remaining eight percent (8%) of the transient lodging tax shall be: deposited in a Special Revenue Fund-Transient Lodging Tax of the City. Distribution of the funds collected from the Transient Lodging Tax shall be by resolution of the City Council.

C. The proceeds of any portion of the transient lodging tax imposed pursuant to Nevada Revised Statutes 268.096 may not be used, unless otherwise specifically provided by state law or this code:

1. As additional security for the payment of, or to redeem, any general obligation bonds issued pursuant to Nevada Revised Statutes 244A.
2. To defray the costs of collecting or administering the tax incurred by the county fair and recreation board.
3. To operate and maintain recreational facilities under the jurisdiction of the county fair and recreation board.
4. To improve and expand recreational facilities authorized by Nevada Revised Statutes 244A.597 to 244A.655, inclusive.

4.02.17: USES AND PURPOSES OF TRANSIENT LODGING TAX PROCEEDS:
The City Council shall use the proceeds of the transient lodging tax provided by this chapter for the following use, uses, purpose or purposes, or any one or more thereof, at such times, in such amounts and in such manner as they shall determine, from time to time:

A. Promotion of Tourism on Transient Lodging Tax Fund:

1. Three-eighths ($^3/_8$) of the first one per cent (1%) of all proceeds of the tax must be paid to the department of taxation for deposit with the state treasurer for credit to the fund for the promotion of tourism.
2. Five-eighths ($^5/_8$) of the first one per cent (1%) of all proceeds of the tax must be deposited with Lyon County to be used to advertise the resources of Lyon County and City of Fernley related to tourism, including available accommodations, transportation, entertainment, natural resources and climate, and to promote special events related thereto.

B. Civic Facilities:

1. Operating and maintaining facilities under the jurisdiction of the City Council.
2. Improving, extending and bettering such facilities.
3. Constructing, purchasing or otherwise acquiring such facilities.
4. To establish, construct, purchase, lease, rent, acquire by gift, grant, bequest, devise, or otherwise acquire, reconstruct, improve, extend, better, alter, repair, equip, furnish, regulate, maintain, operate and manage facilities within or without the City, including personal property, real property, lands, improvements and fixtures thereof, property of any nature appurtenant thereto or used in connection

therewith, and every estate, interest and right, legal or equitable, therein, including terms for years.

5. To accept contributions, grants or other financial assistance from the federal government or any agency or instrumentality thereof, corporate or otherwise, the State of Nevada or any of its political subdivisions, or from any other source, for or in aid of any recreation facility within the area of operation of the City Council, and to comply with such conditions, trust indentures, leases or agreements as may be necessary, convenient or desirable.
6. To use such funds to pay the necessary expense of imposition, collection and expenditure of this transient lodging tax and the proceeds thereof.
7. To use such proceeds to repay any loans, debts or bonded indebtedness that the City Council may incur in connection with such facilities, and that in that connection to pledge this transient lodging tax and the proceeds thereof as security for the repayment of any such loans, debts, obligations secured by bond, bonds, and other indebtedness which may be incurred in connection with such recreation facilities.
9. For marketing and/or promotion of services serving the city.

4.02.18: REFUND: Any person aggrieved by the provisions contained herein shall present his claim to the City council prior to seeking any other form of administrative relief or judicial relief, except as otherwise required by law. The City Council shall have the authority to grant any appropriate relief from the provisions of this chapter, to include the authority to refund, with interest if appropriate, to any licensee, any transient lodging tax improperly collected by the City council or the City Clerk from such licensee and to include the authority to grant relief to any person who is determined by the City Council to have been adversely affected by any retroactive amendments to this chapter.

4.02.19: ENFORCEMENT. The City Clerk is charged with the enforcement of the provisions of this chapter and may employ such accountants, auditors, investigators, assistants and clerks as he or she may deem necessary for the efficient administration of this chapter.

4.02.20: PENALTIES: Any person violating any of the provisions of this chapter, or failing or refusing to collect or pay the transient lodging tax proceeds as herein provided, shall be deemed guilty of a misdemeanor, upon conviction thereof, be punished as provided in this code. Each day's violation of the provisions of this chapter may be deemed a separate offense. The City, by and through its City Clerk, or Mayor and/or City Council, is further empowered and authorized to pursue all rights, remedies, procedures, claims and causes of action it may have at law or in equity to enforce the provisions of this chapter and to collect this transient lodging tax from the persons owing the same, by civil action, including, without being limited to, injunctions.

TITLE 5: PUBLIC HEALTH AND SAFETY

CHAPTER 1: SOLID WASTE MANAGEMENT AND COLLECTION-FRANCHISEES

5.01.01 FINDINGS-PURPOSE: It is declared to be the policy of the City to regulate the collection, transportation, deposit, transfer, recycling and disposal of solid waste in a manner that is consistent with State law and that will:

(A) Protect public health and welfare.

(B) Prevent water or air pollution.

(C) Prevent the spread of disease and the creation of nuisances.

(D) Conserve natural resources.

(E) Enhance the beauty and quality of the environment.

5.01.02 DEFINITIONS: In the construction of this Chapter, the following definitions shall apply, unless the context clearly requires otherwise:

CITY: City of Fernley, County of Lyon, State of Nevada.

COMMERCIAL AND INDUSTRIAL WASTE: (C&I) is produced by non-single family dwelling, business and commerce, and includes but is not limited to, waste from schools, restaurants, offices, retail and wholesale businesses, multi-family apartment complexes, manufacturing industries, service establishments of any type, professional offices, and other types of commercial businesses.

CONSTRUCTION OR DEMOLITION WASTE: Solid waste resulting from the construction or demolition of buildings and other structures, including but not limited to wood, plaster, metals, asphaltic substances, bricks, block and concrete, and landscaping, native vegetation, excavation dirt, rock, stone and gravel. The term “construction or demolition waste” does not include uncontaminated soil, rock, stone, gravel, unused brick and block and concrete if they are separated from other construction or demolition waste and are to be used as clean fill.

COUNCIL: The City of Fernley, City Council.

COUNTY: The County of Lyon, Nevada or the area within the limits of the County and such territory outside of the County over which the County has jurisdiction or control by virtue of any constitutional or statutory provisions.

CPI-U: The Consumer Price Index, All Urban Consumers, U.S. City Average- Item: Garbage and Trash Collection (1983=100) (“CPI”) as published by the Bureau of Labor Statistics, Washington, D.C.

DEAD ANIMALS: All dead animals or parts thereof (including condemned meats) that are not intended to be used as food for man or animal.

EMPLOYEES: Whenever reference is made in this Code to a City employee by title only, this shall be construed as though followed by the words "of the City of Fernley".

EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT: An agreement between the City and a third party by which such third party is exclusively authorized to collect, transport and dispose of single family dwelling garbage.

FRANCHISE AGREEMENT: An agreement between the City and a third party by which such third party is authorized to collect, transport and dispose of non-single family dwelling garbage, commercial, industrial, construction and demolition waste generated within the City.

FRANCHISE FEE: The fee required by a franchise agreement based upon a percentage of a Franchisee's gross cash receipts or gross revenues derived from the collection, transportation and disposal of solid waste in the City.

FRANCHISEE: Any person who has contracted with the City for collection, transportation and disposal of solid waste.

FEE: A sum of money charged by the City for the carrying on of a business, profession or occupation.

GARBAGE: Putrescible animal and vegetable wastes that result from the handling, storage, sale, preparation, cooking and serving of food, and that have been discarded or abandoned. This includes but is not limited to:

(A) Offal, swill, kitchen and table waste, and other organic animal and vegetable waste;

(B) Bottles, cans, cups, plates, utensils, containers, and/or covering of any construction or material that has been in intimate contact with food, confection, and/or beverage;

(C) Any component used in the preparation or manufacture of matter intended for animal or human consumption and;

(D) Such matter and/or materials listed in (A) through (C) above that have been discarded without first being sanitized.

The mixing, addition, or commingling of garbage with rubbish, trash, or other waste matter renders the entire resulting mixture as garbage and requires the mixture to be handled as garbage.

GREEN WASTE: Includes grass clippings, tree, bush and shrub trimmings, branches and other similar material resulting from domestic or commercial gardening, landscaping or maintenance activities.

GROSS CASH RECEIPTS OR GROSS REVENUES: All receipts derived from the collection of solid waste and includes, by way of illustration and not limitation, all money, cash, receipts, property, credits, property or other things of value collected by Franchisee or other consideration of any kind derived directly or indirectly by a Franchisee (or any of its authorized agents or affiliates) for the collection, transportation and disposal of solid waste, including all revenue received from single family dwelling service, commercial and industrial service, transfer station fees, sewage-waste service, container rentals, packaging, shipping and late fees.

HAZARDOUS WASTE: Any waste or combination of wastes, including solids, semisolids, liquids or contained gases which:

(A) Because of its quantity or concentration or its physical, chemical or infectious characteristics may:
  (1) Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or
  (2) Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is given improper treatment, storage, transportation, disposal or other management;

(B) Is identified as hazardous waste by the Nevada Department of Conservation and Natural Resources as a result of studies undertaken for the purpose of identifying hazardous wastes; and

(C) Includes, among other wastes, toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

(D) A hazardous material is one which meets one or more of the following criteria:
  (1) Is listed in the annual registry of toxic effects of chemical substances, or is known to be toxic within the parameters of that registry, and is present at a level of 1% or greater of the composition, except chemicals classified as carcinogens under 29 CFR 1910.1200 (d)(4) shall be listed if the concentrations are 0.1% or greater.
  (2) It has an OSHA established Threshold Limit Value (TVL) or Ceiling Concentration (C) or an American Conference of Governmental Industrial Hygienist's (ACGIH) TLV or C, and by the nature of the product or its known use is likely to become airborne.
  (3). It contributes to one or more of the following hazards to the product:
  (a) Flashpoint below 200 degrees F; or
  (b) Subject to spontaneous heating or decomposition;
  (c) Causes skin burns (DOT);
  (d) Subject to hazardous polymerization.

LAW: Denotes applicable Federal law, the constitution and statutes of the State of Nevada, the ordinances and resolutions of the County, the ordinances and resolutions of the City and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

LICENSE: The permission granted for the carrying on of a business, profession or occupation.

MANDATORY SINGLE FAMILY DWELLING WASTE COLLECTION: Every person which accumulates or causes the accumulation of garbage as defined in this Chapter upon a single family dwelling located on two (2) acres or less in the City shall subscribe to the collection, hauling and disposal of garbage pursuant to the provisions of this Chapter.

For purposes of determining whether garbage service must be subscribed to in accordance with the provisions of this chapter, it is presumed that every dwelling is accumulating or causing the accumulation of garbage upon the premises.

MULTIPLE FAMILY DWELLINGS: Any premises on which there are five or more attached residential dwelling units which are grouped together under the management of one person and which do not require separate individual collection of solid waste.

NON-SINGLE FAMILY DWELLING CUSTOMER: Any solid waste disposal service customer of a Franchisee except for any single family dwelling customer.

OCCUPANT: When applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

OPERATOR: The person who is in charge of any operation, business or profession.

OVERFLOW or OVERFLOWING SOLID WASTE: Solid waste of non-single family dwelling customers that is deposited on the ground outside of a solid waste container (except for any items bundled in accordance with this Chapter), or excess solid waste that has been piled onto a solid waste container that is already full to such an extent that the excess solid waste will spill onto the ground in the emptying process, requiring more than minimal manual cleanup of solid waste from the ground.

OWNER: As applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land.

PERSON: Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, or the manager, officer or employee of any of them, as well as a natural person.

PLACE OF BUSINESS: Any place of business in the City, other than multiple family dwellings, to conduct or carry on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.

PREMISES: A nonresidential or residential lot, including any buildings, improvements, and personal property located thereon.

PROPERTY: Includes real and personal property.

PUTRESCIBLE: Capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases.

REAL PROPERTY: Includes lands, tenements and hereditaments.

RECYCLABLE MATERIAL: Defined in NRS 444A.013 and includes solid waste that can be processed and returned to the economic mainstream in the form of raw materials or products, as determined by regulations adopted by the Nevada State Environmental Commission and the Nevada State Division of Health.

RESIDENTIAL FRANCHISEE: The person or entity who has entered into an Exclusive Residential Franchise Agreement with the City.

REVENUE: SEE GROSS CASH RECEIPTS OR GROSS REVENUE

SIDEWALK: That portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

SINGLE FAMILY DWELLING: A building or dwelling designed or used for single- family occupancy and where no business is conducted (other than a licensed home occupation business), and includes a mobile home, modular home, and multi-unit attached occupancies consisting of four units or less which includes, but is not limited to, duplexes, apartments, condominiums, or other attached occupancies consisting of four units or less.

STATE: The State of Nevada.

STREET: Includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this City which have been or may hereafter be dedicated and open to the public use or such other public property so designated in any law of this State

SOLID WASTE: All putrescible and nonputrescible materials in solid or semisolid form that have been discarded or abandoned by their owner, including domestic or household waste resulting from the ordinary domestic use or occupation of a house, flat, apartment, unit, boarding house, hostel or guesthouse; garbage, rubbish such as paper, cardboard, automobiles, cans, wood, glass, bedding, crockery and similar materials,

junk vehicles and parts, ashes or incinerator residue, street refuse, dead animals, construction or demolition waste, commercial or industrial waste, garbage, sewage waste, commingled recyclables and other refuse which includes discarded materials that have no useful physical, chemical or biological properties after serving their original purpose and that cannot be reused or recycled for the same or other purposes. The term “solid waste” does not include hazardous waste.

TENANT and OCCUPANT: As applied to a building or land, includes any person who occupies whole or part of such building or land, whether alone or with others.

TRANSFER STATION: A collection site where solid waste and recyclables may be taken by persons and deposited into designated containers as provided for in this Chapter.

UNFORESEEN ECONOMIC CIRCUMSTANCE means:

(A) A percentage change in the CPI-U for a given twelve-month period that is greater than ten percent or below zero (a decrease);

(B) An adverse economic occurrence beyond a Franchisee’s reasonable control; or

(C) A finding by the City Council that there have been economic occurrences during that period that have caused specific additional economic costs for a Franchisee which are not reflected in changes to the CPI-U during that same period.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond required by law, it shall be in the proper handwriting of such person, or in case he is unable to write, by his proper mark.

YEAR: A calendar year.

5.01.03 COLLECTION OF WASTE SUBJECT TO RULES AND REGULATIONS.
Any person collecting, transporting, processing or disposing of solid waste, hazardous waste or recyclables shall do so subject to the codes, ordinances, rules and regulations of the City of Fernley, Lyon County, the State of Nevada and the Federal Government.

5.01.04 PERMIT REQUIRED:

(A) No person shall collect, remove or convey any solid waste upon, along or across any public street, alley, highway or other public place without first applying for and receiving either an Exclusive Residential Franchise Agreement or a non-residential franchise permit therefor from the City Council.

(B) No person shall operate a transfer station within the City without first applying for and receiving either an Exclusive Residential Franchise Agreement or a non-residential waste permit therefor from the City Council.

5.01.05 PERMIT APPLICATION, CONSIDERATION BY CITY COUNCIL

(A) Any person desiring to obtain a non-residential franchise permit to remove or convey any solid waste upon or along any public street, alley, highway or other public place shall pay an application fee and sign and file an application with the City Council.

(B) Any person desiring to obtain a non-residential franchise permit to operate a transfer station within the City shall pay an application fee and sign and file an application with the City Council.

(C) When application shall be made to the City for a non-residential franchise permit, City staff will make a determination whether the application is complete. Thereafter the City Council shall consider the matter and shall have a right to grant or reject non-residential franchise the permit sought.

(D) Upon approval by the City Council, applicant shall enter into a franchise agreement with the City subject to the terms and conditions approved by the City Council.

5.01.06 FRANCHISES PERMITTED, FEE

(A) Each holder of a non-residential franchise permit shall pay a franchise fee of eight percent (8%) of their total gross revenues from customers located within the City unless otherwise provided for through City Council resolution.

(B) The holder of the Exclusive Residential Franchise shall pay a franchise fee of a percentage of their total gross revenues from customers located within the City as set by City Council, as provided for in the Exclusive Residential Franchise Agreement.

(C) The holder of the Exclusive Residential Franchise permit shall maintain a transfer station within the City unless otherwise agreed to between said

Franchisee and City.

(D) Any person operating a transfer station within the City shall pay a franchise fee of eight per cent (8%) of their total gross revenues collected from customers.

5.01.07 DURATION OF NON-RESIDENTIAL FRANCHISE PERMIT
Non-Residential Franchise permits shall be processed and renewed annually for non-exclusive commercial franchises and transfer stations, owned by non-exclusive commercial franchisees and continue in full force and effect unless terminated by City Council action. City Council termination action is not subject to cause and the Contractor will be given thirty days (30) notice to cease operations.

5.01.08 TRANSFERABLITY:
No permit granted pursuant to the provisions of this Chapter shall be assigned or transferred by the Contractor without the consent of the City Council.

5.01.09 REVOCATION OF NON-RESIDENTIAL FRANCHISE PERMIT
In the event that any Contractor holding a non residential franchise permit to operate a transfer station or to collect, remove or convey solid waste upon or along any public street, alley, highway or other public place shall violate any of the conditions of such franchise permit or any provisions of this Chapter or any other ordinance of the City that may now be in force or may hereafter be enacted, relating to or regulating the collection, removal or disposal of solid waste, or shall remove or convey such solid waste in an unlawful, improper or unsanitary manner, the City Council, in addition to any other penalty provided by this Chapter, may revoke such franchise permit issued to such Contractor. If the franchise permit shall be revoked, no permit may thereafter be granted to said Contractor.

5.01.10 DEPOSITING ON PRIVATE OR PUBLIC PREMISES OR WAYS UNLAWFUL.

(A) It is unlawful for any person to:

(1) Dump, spill, throw, place or bury in any parcel of land, lot, street, highway, gutter, or in any alley or in any water or stream or in any canal or ditch within the limits of the City any garbage, solid waste matter, hazardous waste or any deleterious or offensive substances.

(2) Throw or deposit, or cause to be thrown or deposited, any solid waste or hazardous waste upon the private or public property or premises or into the container of another person within the City, except as may be provided for in this Chapter.

(3) Place, deposit or accumulate, or cause to be placed, deposited or accumulated, any solid waste or hazardous waste in such a manner, or permit the same to remain on his or her premises in such condition so that the same may be blown or carried over to public or other private property by any means whatsoever.

(4) Throw or deposit or cause to be thrown or deposited any solid waste or hazardous waste in any areas of the City not designated, authorized or licensed by the City for deposit of these materials.

(B) There is hereby created a rebuttable presumption that the disposal of solid waste or hazardous waste in violation of this Section was done by the owner of such items.

5.01.11 BURNING WASTE UNLAWFUL—EXCEPTIONS: It is unlawful for any person, for the purpose of disposal of solid waste or hazardous waste by burning or knowingly to furnish the materials for any such fire, or to authorize any such fire to be kindled or maintained in any solid waste or hazardous waste on any street, alley, road, land or other public grounds or upon any private property, within the City, unless a written permit to do so shall first have been secured from the applicable State and/or local agency; provided, however, that solid waste and infectious waste may be burned in an incinerator duly approved by the applicable State and/or local agency.

5.01.12 COLLECTION BY OTHER THAN FRANCHISEE UNLAWFUL—EXCEPTIONS.

It is unlawful for any person, other than the City, or a Franchisee to collect or transport any solid waste; except under the following provisions:

(A) Any duly licensed and permitted septic tank or grease trap pumpers, lawn maintenance services and tree trimmers may transport those materials accumulated in or generated by the performance of licensed services to a transfer station or a disposal site operated in accordance with all applicable laws, rules and regulations.

(B) Any person may transport his or her own solid waste to a transfer station or a disposal site operated in accordance with all applicable laws, rules and regulations; provided however, that no person may hire, contract or otherwise engage another person to transport the person's own solid waste unless the hired, contracted or otherwise engaged person has a permit and franchise agreement with the City according to the terms of this Chapter.

(C) A charitable organization qualified as such under the Federal Internal Revenue Code may collect solid waste from any premises at the express request of the owner, tenant or occupant and may transport the collected solid waste upon application and receipt of a Charitable Organization Waste Collection Permit processed by the City without any associated fees.

(D) Except in case of an emergency declared by the City Manager under this Chapter.

5.01.13 EMERGENCY COLLECTION—PROVISIONS:

(A) In the event of an interruption in the collection, transportation or disposal of solid waste by the City or its Franchisees, problems affecting the public health, safety and welfare may arise. These problems may include increases in pathogens, vectors, fire hazards, unsightly litter, odor and traffic hazards from the accumulation of solid waste. This Section is intended to provide for the emergency collection, transportation and disposal of solid waste by private citizens in order to minimize the adverse impact on the public health, safety and general welfare arising from an interruption in the collection, transportation and disposal of solid waste.

(B) In the event of an interruption in the collection, transporting or disposal of solid waste by the City or its Franchisees, the City Manager may declare an emergency.

(C) If the City Manager declares an emergency under Subsection (B) of this Section, the provisions of this Chapter which relate to transporting solid waste shall be suspended and the following provisions shall apply until the date specified in the declaration of emergency or in a subsequent declaration:

(1) The City Manager may designate, establish, operate and maintain temporary emergency collection areas for solid waste;

(2) Any person may transport the solid waste generated or found on real property in his or her possession to a designated temporary emergency collection area;

(3) Until hauled to a designated temporary emergency collection area, all putrescible solid waste shall be stored indoors in plastic bags or outdoors in containers or receptacles which will not permit access by flies or animals or constitute a fire hazard; and

(4) All putrescible solid waste hauled to a temporary emergency collection area must be securely contained in plastic bags.

5.01.14 INTERFERENCE WITH CONTAINERS UNLAWFUL:

(A) It is unlawful for any person other than the owner, the City or a Franchisee, or their duly appointed agents, to interfere in any manner with any container containing solid waste or hazardous waste, to remove any such container from the location where placed for collection by the owner, the City or a Franchisee.

(B) It is unlawful for any person, other than the operator of a transfer station or his duly appointed agent, to interfere with or remove any solid waste from a transfer station.

5.01.15 TRANSPORTATION OF WASTE—REGULATIONS:

It is unlawful to use any cart or vehicle for the transportation or removal of solid waste unless such cart or vehicle is appropriately constructed, covered and/or restrained, within industry standards and in accordance with NRS Chapter 484, to prevent or

minimize odors from or leakage, sifting, spilling, drifting or blowing of such solid waste in or upon the streets through which such cart or vehicle may be driven.

5.01.16 CONTAINERS—RESPONSIBILITY TO PROVIDE—PLACEMENT:

(A) Every person owning or managing any premise or dwelling, except as otherwise provided in Subsection (E) of this Section, shall provide one or more containers sufficient for the depositing of all solid waste from the premises as provided for in this Chapter.

(B) For single family dwellings, it is unlawful to place, keep, store or locate any solid waste or recyclables container within the right-of-way of a street, sidewalk or alley, as defined in the zoning regulations and Community Development Code of the City; provided, however, that such containers may be placed within such area, except for traffic lanes, for the purpose of the collection of solid waste and recyclables no earlier than two p.m. on the day prior to the designated collection day and no later than 6:00 a.m. on the designated collection day, and that such containers must be removed from the right-of-way no later than midnight of the collection day.

(C) On any multiple family dwellings, commercial or industrial premises, it is unlawful to place, keep, store or locate any solid waste or recyclables container within the right-of-way of a street, sidewalk or alley. Containers shall be stored within an enclosure if an enclosure was required in connection with development approval or is otherwise required.

(D) Places of business whose solid waste consists principally of boxes, cartons and other items of such bulk that the placing of the same in a container would be impracticable may provide for such solid waste to be piled on the premises of such place of business adjacent to a street or alley, provided such boxes or cartons shall be flattened and tied in bundles.

(E) The Residential Franchisee shall not be required to pick up solid waste from any location that the Franchisee, subject to the City's approval, determines is not safe to access with its disposal vehicles due to space limitations restricting vehicle access or maneuverability, including maneuvers requiring the unsafe backing up of vehicles.

(F) The Residential Franchisee may charge a reasonable fee to a customer when a customer requests that the Residential Franchisee clean their designated container. The customer shall be responsible for the replacement cost of a designated container that is lost or damaged if the Residential Franchisee can prove the customer did cause its loss or damage.

5.01.17 CONTAINERS—CONSTRUCTION:

(A) At any single family dwelling that receives individual curbside collection service, each container which cannot be emptied by mechanical or hydraulic equipment

shall have a capacity of no more than thirty-two (32) gallons and shall weigh no more than fifty (50) pounds, including the contents thereof.

(B) Except for manual type drop-box containers, all solid waste containers shall be constructed watertight and shall be provided with handles and tight-fitting covers. Each such container and cover shall be made of a material approved for such use by the City. Covers shall not be removed except when necessary to place solid waste therein. Each container and its cover shall be kept clean from accumulating grease and decomposing material.

(C) It is unlawful for a non-single family dwelling customer to place out for collection a container which has overflowing solid waste.

5.01.18 REMOVAL BY AUTHORIZED PERSONS ONLY:

(A) No person other than the owner, the City or a Franchisee, or their agents may:

(1) Remove any solid waste or recyclables from the solid waste containers or recyclables containers that are intended for collection by a Franchisee as part of its solid waste collection and curbside recyclables collection programs;

(2) Remove recyclables that have been tied, boxed, bundled or otherwise collected and placed for collection by a Franchisee as part of its curbside recyclables collection program; or

(3) Tamper with, engage in, interfere with or participate in curbside recyclables collection.

(B) No person other than an owner or operator of a transfer station, or their authorized agents, may remove solid waste from the transfer station that have been bundled, boxed, tied or otherwise collected and placed adjacent to the drop-off center.

5.01.19 WASTE TO BE PLACED IN CONTAINER—EXCEPTIONS:

(A) All solid waste shall be placed in a container; provided, however, that:

(1) Places of business may place solid waste on their premises pursuant to Section 5.01.16 (D) and

(2) Tree trimmings, scrap lumber and other solid waste capable of being bundled in accordance with Subsection (B) of this Section may be bundled if securely tied and placed next to a container.

(B) Items bundled pursuant to this Section shall not exceed four feet in length nor weigh more than fifty pounds.

5.01.20 SINGLE FAMILY DWELLING COLLECTION CHARGES:

The charges for collecting, transporting and disposing of solid waste from single-family dwellings and multiple family dwellings consisting of four units or less shall be determined in accordance with the terms of the Exclusive Residential Franchise Agreement.

5.01.21 SINGLE FAMILY DWELLING COLLECTION CHARGES—ONE-TIME COLLECTIONS:
The charges for special one-time collections for single family dwellings, may be billed at the time of service as on-call services in accordance with the terms of the Exclusive Residential Franchise Agreement.

5.01.22 COLLECTION CHARGES—OVERFLOW:

(A) No single family dwelling overflow charges may be assessed unless:

(1) Written notice of an overflow, delivered by regular U. S. mail, e-mail or facsimile (fax) or personal delivery, has been provided to the owner or manager of the premises, and a subsequent overflow occurs at the premises within ninety days after:

(a) Such notice has been given; or

(b) The last overflow charge has been assessed at the premises; and

(2) There is significant overflow from a container, as defined in this Chapter and as evidenced by a photograph; and

(3) The overflow has actually been collected by the City or its Franchisee.

(B) No single family dwelling overflow charge may be assessed for an overflow that is caused by a prior collection being missed or being performed improperly, or by containers being repositioned by a Franchisee after collection such that a container is inaccessible to tenants of the premises, resulting in overuse of and overflow occurring in another container.

(C) No single family dwelling overflow charge may be assessed for an overflow that is caused because the time of day of collection was more than four hours later than the time of day when the last regularly scheduled collection occurred.

(D) Single family dwelling overflow charges assessed pursuant to this Section may be waived by the Franchisee if it is determined that the owner or manager of the premises has taken reasonable steps to avoid future overflows, including but not limited to increasing the container capacity or collection frequency, installing locks on the lids of containers or on access gates to curtail illegal dumping by third parties, or other property-management measures designed to avoid overflows.

5.01.23 COLLECTION CHARGES—DEREGULATED FOR SPECIFIED CATEGORIES:
The charges specified in Section 5.01.20 for collecting, transporting and disposing of solid waste shall not apply to non-single family dwelling waste, multiple family dwellings that are not part of the exclusive residential franchise agreement, construction or demolition waste, commercial or industrial waste, septic-tank waste, grease-trap waste, or landscaping or tree-trimming waste handled in accordance with this Chapter. A Franchisee or other licensed service provider may set its own charges for the collection, transportation and disposal of such solid waste.

5.01.24 MANDATORY SINGLE FAMILY DWELLING SERVICE—BILLINGS—PENALTIES:

(A) To ensure the uniform, safe and sanitary treatment of solid waste in the City and to discourage the illegal handling and disposal of solid waste, it shall be mandatory for any person owning, occupying or managing any single family dwelling in the City which are located upon two (2) acres or less to subscribe to solid waste collection service provided by the City or its authorized Franchisee and to pay the charges specified in the Exclusive Residential Franchise Agreement. No person may discontinue paying for solid waste collection service for a residence, unless such residence is not occupied for the period of one (1) month.

(B) Exemptions.

(1) City of Fernley staff may grant exemptions from mandatory residential garbage collection service based upon written documentation, including filling out a "City of Fernley Exemption Form", which provides proof of the following:

(a) No garbage is produced or stored upon the premises;

(b) A geographical condition exists that presents a significant hardship for the resident of the property or for the franchised collector to process normal curbside collection of garbage; or

(c) Residents wish to haul and dispose of their own residential garbage and will provide a written Affidavit of Compliance which provides for compliance with City, State and Federal laws and regulations, which requires weekly garbage removal in urban areas and that no garbage will accumulate upon the property.

(d) Staff may perform a "drive by" inspection of the premises granted an exemption at any time or will respond to a complaint of accumulated garbage as provided for in City Code Enforcement procedures. If an exempt resident's premise is determined by the City Code Enforcement Officer to be non-compliant with City code, the exemption for mandatory residential garbage collection will be revoked.

(e) If a resident's exemption is revoked for any reason, they or any co-habitant may not apply for an exemption from mandatory residential garbage collection for a period of three (3) years.

(f) Caregiver Exemption. Premises where a person provides unpaid care by looking after an ill, frail or disabled family member, friend or partner and the caregiver provides for disposal of all garbage generated upon the premises may be allowed an exemption. The Caregiver Exemption may be applied for by either the person who provides the care or by the person who receives the care, and must include a written affidavit setting forth the necessary facts and signed by the caregiver and the recipient of the care, along with the City of Fernley Exemption Form.

(g) Persons having applied for an exemption, in writing, to the Fernley City Council prior to August 1, 2009, will have the exemption applied retroactively. If at any time, it is found that the person receiving the permanent exemption is not compliant with the provisions of this

chapter relative to regular garbage removal or an accumulation of garbage occurs upon the premises, which constitutes a health and safety issue, the permanent exemption for mandatory residential garbage collection will be revoked. A person having the permanent exemption from mandatory residential garbage collection revoked will be subject to the provisions of chapter 5.01.24 (B)1a-f.

(2) Exemptions will not be granted if an outstanding balance exists with the Residential Franchisee.

(3) Exemptions from mandatory residential garbage collection will be valid for a period of one (1) year and can be reapplied for annually prior to the expiration date of the exemption.

(a) Exemptions may be granted administratively, but will not exceed more than twenty-five (25) exemptions, including Caregiver Exemptions, in any calendar year.

(b) The City Council, at its discretion, may grant additional exemptions from mandatory residential garbage collection beyond the twenty-five (25) exemptions allowed by City Code Enforcement. The exemptions petitioned to the City Council will be heard on a case by case basis.

(c) Annual exemptions allowed by City Code Enforcement that are not reapplied for prior to expiration will be considered new exemptions from mandatory residential garbage collection. It is the responsibility of the holder of the exemption to reapply for the exemption in a timely manner. The City is not responsible for notification to the holder of the exemption of the expiration of the exemption allowance. (ORD 2009-011)

(C)For a temporary exemption from mandatory single family dwelling waste collection, the owner of the property must provide an affidavit of non-occupancy for the period of one (1) month. Such affidavit is sufficient proof to warrant a credit or refund of the single family dwelling collection rate from the Residential Franchisee to the customer. (ORD 2009-011)

(D) In order to discontinue paying for solid waste collection service pursuant to Subsection (A) of this Section, a person must request discontinuation of service and provide proof that there is no occupancy of the premises. No fee may be charged to discontinue service or to reestablish service to the premises after service has been discontinued pursuant to this Subsection (B).

(E) All charges for regular or periodic services provided by the City, or its Franchisees, pursuant to this Chapter shall be billed in advance on the first business day of the quarter and shall be due and payable within twenty five (25) days; provided, however, that charges for on-call service may be billed at the time of service. All charges for services under this Chapter, including the penalties for delinquent payment, shall constitute a debt and obligation of the

legal owner of the premises to the City or its Franchisee, and such person shall be liable therefore in a civil action commenced by the City or its Franchisee in any court of competent jurisdiction for the recovery of such charges and penalties. (ORD 2009-011)

(F) If any person fails to pay the charges authorized by the Exclusive Residential Franchise Agreement by the date they become due and payable, the Franchisee may impose a penalty.

(G) A customer shall be entitled to a refund of an advance payment for service he or she has made upon presenting proof that occupancy did not occur at the customer's premises during the entire billing period for which the advance payment was made. All refunds from a Franchisee to a customer shall be paid within thirty days from the date of the customer's request for reimbursement or date of Franchisee's knowledge that a refund is owed or a credit provided to the customer's account.

(H) No person shall accept and no Franchisee shall offer or give any solid waste collection, transportation and disposal without charge or shall offer or give a discount, refund or rebate of any charge authorized by the Exclusive Residential Franchise Agreement, except that this provision does not apply to any credits or refunds issued pursuant to this Chapter, charitable organizations which are exempt from federal income tax pursuant to Section 501(c) of the Internal Revenue Code and hold a permit issued by the City or as further provided by franchise agreement.

5.01.25 DELINQUENT CHARGES AND PENALTIES—LIEN:
All solid waste collection charges authorized and established by the Exclusive Residential Franchise Agreement, including any penalties assessed under Section 5.01.24, shall constitute a lien upon the real property of the premises served until such charges have been paid. Such lien shall be enforced in the manner specified in NRS 444.520.

5.01.26 SINGLE FAMILY DWELLING CHARGES—PERIODIC ADJUSTMENTS:
The single family dwelling charges established pursuant to the Exclusive Residential Franchise Agreement shall be adjusted annually based upon the percentage of change

in the CPI-U as provided for in the Exclusive Residential Franchise Agreement.

5.01.27 FRANCHISE FEE:

(A) Every Franchisee shall pay a quarterly franchise fee, in the amount specified in the franchise agreement, based on its gross cash revenues derived from the operation of a transfer station, collection of solid waste and curbside recyclables for the preceding calendar quarter. All franchise fees shall be due no later than 15 days after the end of each calendar quarter.

(B) All charges to customers for the collection of solid waste pursuant to the Exclusive Residential Franchise Agreement shall be deemed to include the franchise fee which the Franchisee pays to the City. The Franchisee may pass such fees through to its customers only as a part of the general service charges charged to its customers, not as a separate charge that is additional to the general service charges.

(C) If a franchise fee is received by the City after the due date, a late fee of ten percent (10%) per month of the delinquent amount will be assessed to the Franchisee.

(D) The City shall have the right, upon reasonable advance notice, to inspect, audit, and copy all records relating to the permit. In the absence of extraordinary circumstances, five business days notice shall be considered reasonable. Such records should be made available to the City at the Contractor's regular place of business during regular business hours, but in no event outside the City of Fernley.

(E) All Franchisees shall keep full, true, and correct books, records, and accounts, establishing the identity and number of customers served by it, and the amount of its gross monthly revenues which said books, records, and accounts shall at all times be open to inspection by the duly authorized representatives of City during regular business hours. Further, Franchisee shall furnish to City quarterly a statement of all of its gross revenues attested as being correct by a representative of Franchisee duly authorized to do so. (ORD 2009-011)

(F) Audit Requirement. Franchisees shall be required to submit to certain "agreed upon procedures" performed by City staff or a qualified independent person or firm to verify gross revenues as defined in this Chapter and the associated franchise fees payable or paid to the City. The verification and review to be conducted shall be limited to an analysis of Franchisee's revenue and shall not include any analysis or review of Franchisee's expenses or costs associated with performance under the terms of this Chapter. The Franchisee shall reimburse the City for the cost of conducting the agreed upon procedures in an amount not to exceed Seven Thousand Five Hundred Dollars ($7500.00). The City will not require the agreed upon procedures more often than every three (3) calendar years, with the procedure generally covering a three (3) year period. Following

completion of the agreed upon procedures, the Franchisee will be provided a copy of the report of the procedures performed, the results and summary of amount due to City or to be refunded to Franchisee. Franchisee shall have thirty (30) days following receipt of the report to appeal the results of the report to the City Council. Following expiration of any appeal period, either the Franchisee shall remit amounts due the City or the City shall process a refund of franchise fees, depending upon the results of the agreed upon procedures report.

(G) City shall have the right, at any time, to audit and otherwise review any Franchisee's records with regard to Franchisee's revenue generated from activities conducted pursuant to this Chapter.

(H) If the examination discloses that the Franchisee is charging collection and disposal rates below or above the City Council approved single family dwelling rates or the gross revenues are not reported correctly and accurately by any Franchisee, the Franchisee's solid waste permit will be subject to revocation.

5.01.28 DEPOSIT OF WASTE AT DISPOSAL SITE:
All solid waste and hazardous waste collected from the public and private places and premises in the City shall not be deposited at any place other than at a transfer station or disposal site operated in accordance with all applicable laws, rules and regulations.

5.01.29 VIOLATION:
GENERAL PENALTY. Except where other penalties are provided by law, violations of this Chapter of the City of Fernley Municipal Code hereby are declared to be misdemeanors, punishable as provided in the Nevada Revised Statutes for misdemeanor violations as said statutes may be from time to time amended.

INJUNCTIVE RELIEF. The City, in addition to the remedies and penalties above named, may seek injunctive relief against any violator of this Chapter, with or without prior notice, to prevent or correct any solid waste or hazardous waste problem.

5.01.30 ALTERNATIVE COLLECTION SCHEDULES—RECYCLING PROGRAMS:
Notwithstanding any provision in this Chapter to the contrary, the City Manager, Single Family Dwelling Waste Franchisee and specific property owners in designated control areas may agree upon alternative collection schedules for specified test periods for the purpose of testing recycling.

5.01.31 CITY'S RIGHT TO COLLECT AND DISPOSE OF WASTE:
Except as otherwise provided for in the Exclusive Residential Franchise Agreement nothing in this Chapter shall limit the right of the City to collect, transport, process or dispose of any solid waste or hazardous waste including the operation of transfer stations and recycling centers.

5.01.32 DECLARATION OF NUISANCE:
Solid waste and hazardous waste, as defined in Section 5.01.02 and for the purpose of

this Chapter, are a nuisance per se.

TITLE 6: LAW ENFORCEMENT REGULATIONS

CHAPTER 1: ANIMALS AND ANIMAL SERVICES

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

ANIMAL SERVICES OFFICER: The person or persons hired by the City of Fernley for the purpose of enforcement of the provisions of this chapter.

AT LARGE: Any place off of the premises of the owner or person having custody and control of a dog and not accompanied by and under the control of the owner or any other responsible person by physical restraint or signal command or voice command.

BIG GAME ANIMAL: Any species of prong-horned antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk which runs free in the wild.

BOARD: The Board of County Commissioners for Lyon County.

CITY: The City of Fernley

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

CUSTODIAN: The person, firm, corporation or any other entity owning or otherwise having the care, custody or control of any livestock.

ESTRAY HORSE: Any horse running at large upon public or private lands in the county whose owner is unknown in the section where the animal is found.

KENNEL:
Breeder's Kennel: Any enclosure, premises, building, structure, lot or area where more than three (3) dogs of a recognized registered breed over six (6) months of age are kept, harbored or maintained as follows:
(A) For breeding;
(B) For showing in recognized dog shows, field or obedience trials;
(C) For working or hunting; or
(D) For improving the variety or breed in temperament or conformation with a view to exhibition in shows or trials or for use as working dogs in hunting.

COMMERCIAL KENNEL: Any enclosure, premises, building, structure, lot or area where more than three (3) dogs over six (6) months of age are kept, harbored or maintained for commercial purposes.

LICENSED VETERINARIAN: A doctor of veterinary medicine currently licensed in Nevada to practice veterinary medicine.

LIVESTOCK: All cattle or animals of the bovine species; all horses, mules, burros and asses or animals of the equine species; all swine or animals of the porcine species; all goats or animals of the caprine species; all sheep or animals of the ovine species; all poultry or domesticated fowl or birds; and all alternative livestock such as alpacas and llamas.

OWNER: Any person owning, keeping or harboring a dog or any other animal regulated by this chapter.

PERSON: Includes any firm or corporation, and the masculine gender as used includes the feminine.

POUND: Any facility designated by the board for receiving and holding dogs or any other animal regulated by this chapter.

PREMISES: The property upon which the custodian keeps or maintains his livestock, whether such property is owned, rented, leased, or otherwise made available to the custodian for his livestock.

RABIES CONTROL AUTHORITY: The person(s) designated by the Board to administer the rabies control provisions of this chapter.

RUN OR RUNNING: Being present and does not refer solely to the actual activity of rapid movement.

WILD HORSE: Any horse, mare or colt which is unbranded and unclaimed and lives on public land.

6.01.02: JURISDICTION: The terms of this chapter shall apply to all incorporated areas within the City of Fernley.

6.01.03: ANIMAL SERVICES OFFICER:

(A) Authority: The animal services officer is empowered to:
   (1) Enforce all provisions of this chapter, including the power to issue misdemeanor citations for violations of this chapter and related matters.
   (2) Take up, impound and safely keep any animal found to be in violation of the provisions of this chapter.
   (3) Remove from any property any dog when necessary for the protection of the dog or the general public.

(B) INTERFERENCE WITH ANIMAL SERVICES OFFICER: No person shall interfere with or resist any animal services officer while engaged in the performance of their duties pertaining to the enforcement of this chapter. All such officers and employees are hereby empowered to enforce all of the provisions of this chapter.

(C) CONSULT WITH STATE VETERINARY SOCIETY: In the performance of his

duties, City of Fernley animal services and the animal services officers will consult with the state board of veterinary medicine or its representatives concerning the type and method of use of tranquilizer drugs to be utilized.

6.01.04: DOGS:

(A) LICENSE REQUIREMENTS: Except for dogs being used for the purpose of herding livestock or the protection of livestock against predators on farm or ranch property designated as greenbelt by the assessor, kennels or animal hospitals operated by a licensed veterinarian, every dog over the age of six (6) months shall be licensed.

(1) DOG LICENSES:

(a) License And Tag: Upon presentation of a certificate of rabies vaccination and the payment of the license fee, the City of Fernley animal services division or a designated representative shall issue to the owner a license receipt and metallic tag for each dog licensed. Said metallic tags shall be worn by the licensed dog on a visible collar. Registered show dogs and working dogs while in the field are exempt from wearing the tag.

(b) License Fees: The fees for dog licenses and tags, other than dogs housed in a kennel, shall established and modified by resolution of the Council. (ORD 2002-009)

No penalty shall be imposed if the license is obtained within thirty (30) days after July 1 or within thirty (30) days after the owner comes into ownership or possession of the dog. If the dog license is not purchased within such period, the owner shall pay, in addition to the regular license fee, a penalty of one hundred percent (100%).

(B) NUMBER OF DOGS:

(1) Number Of Dogs Restricted: It is unlawful, except as otherwise provided herein, for any single-family unit or residence to keep or harbor more than three (3) dogs over the age of six (6) months. No dogs may be kept or harbored on any property unless the owner or responsible party of said dogs resides upon that property. The above limitations do not apply to dogs being used for the purpose of herding livestock or the protection of livestock against predators on farm or ranch property designated as greenbelt by the assessor, kennels or animal hospitals operated by a licensed veterinarian.

(2) Security Dogs: Up to three (3) dogs for security of an ongoing authorized and licensed use may be kept upon commercial or industrial property without the owner or responsible party of said dogs residing thereon. The area in which said security dogs are maintained shall be enclosed or fenced and be posted with signs clearly indicating "Guard Dog on Duty".

(C) RUNNING AT LARGE PROHIBITED: It is unlawful for any owner or person

having custody, control or possession of any dog to permit the same to trespass on any private property owned by another or to run at large on any street, alley, court, park, school, playground, right of way or private street open for use to the general public.

(D) IMPOUNDMENT AND REDEMPTION PROVISIONS:

(1) Authority to Impound: The animal services officer, his authorized representatives and every peace officer, while on duty, are authorized to take up and impound:

(a) Subject to the provisions of this chapter, all dogs found trespassing on private property or running at large.

(b) All dogs in the county which are endangering private or public property, public safety, themselves or other animals.

(2) Notice of Impoundment; Disposition of Unclaimed Dogs:

(a) Where the identity of the owner of an impounded dog is discovered such owner shall be given notice of the impoundment. Seven (7) days after written notice is mailed, or actual notice is given, the impounded dog may be destroyed in a humane manner under the direction of the animal services officer; provided however, any such unredeemed dog authorized for destruction may be sold or given to any person in accordance with the regulations promulgated under this chapter.

(b) In the event the identity of the owner of an impounded dog cannot be ascertained and notice given, then such dog may be disposed of pursuant to this subsection D five (5) days after impoundment.

(c) Any sick, injured, mutilated or damaged dog impounded pursuant to this chapter may be disposed of immediately unless the owner is discovered through the dog's license and reclaims the dog within eight (8) hours after the impoundment.

(3) Reclaiming Impounded Dogs: The owner or person entitled to the custody or possession of any impounded dog may, at any time before the disposition thereof, reclaim or redeem such animal by complying with the provisions of this chapter and regulations hereunder and by paying to the animal services officer all charges imposed for the impounding of the dog and any license fees due.

(4) Regulations for Costs and Disposition: The animal services officer, with the approval of the board, is authorized to set forth reasonable regulations for charging owners or persons having the care, custody or possession of dogs impounded under this chapter for all costs and maintenance incurred by the county. In addition, the animal services officer is authorized to make such reasonable regulations for the disposition of impounded dogs.

6.01.05: PROHIBITED ACTS AND CONDITIONS:

(A) NOISY ANIMALS: It is unlawful for any person to keep, harbor or own any animal which, by loud and frequent barking, yelping or other noise, constitutes a nuisance as defined in Nevada Revised Statutes 40.140.

(B) ABANDONMENT OF ANIMALS: It is unlawful for a person being the owner, the possessor or having charge or custody of any animal to abandon said animal on or adjacent to any public street, road, highway or other public place.

(C) FEEDING AND WATERING BIG GAME ANIMALS, ESTRAY AND WILD HORSES: It is unlawful for a person to feed and/or water any big game animal, estray horse or wild horse within one thousand five hundred feet (1,500') of the highway right of way of U.S. Highway 50, 95, 95A, 208, 341, 342 and 339 unless the area is securely fenced to prevent the animals from wandering into the highway right of way.

6.01.06: IMPOUNDMENT OF DOGS ON PRIVATE PROPERTY:

(A) IMPOUNDMENT BY PROPERTY OWNER: Any dog found doing damage to or trespassing upon private property in the City may be taken up by the owner of such property or his representative at his own risk and delivered forthwith to the animal control center or held until the animal services officer, his deputies or authorized representatives can take the dog.

(B) IMPOUNDMENT BY ANIMAL SERVICES OFFICER: The animal services officer is authorized and directed to take up any animal kept or found on private property if:

(1) Such animal has been observed by the animal services officer to be in violation of this chapter and actual or written notice has been provided to the responsible party having the care or custody of the dog; or

(2) If such animal is being subjected to torture or cruelty as defined in Nevada Revised Statutes 574.050.

The animal services officer shall leave written notice of impoundment on the premises from which the animal is taken.

6.01.07: RABIES CONTROL:

(A) RABIES CONTROL AUTHORITY: The appointed rabies control authority in the City is City of Fernley Animal Control, the sheriff and appointed deputies, and appointed animal services officer(s).

(B) VACCINATION AGAINST RABIES:

(1) An owner of a dog, cat or ferret shall maintain the dog, cat or ferret currently vaccinated against rabies in accordance with NAC 441A.435.

(2) If the owner of a dog, cat or ferret violates this section, the rabies control authority may impound the dog, cat or ferret.

(3) The only proof of vaccination against rabies acceptable to county is a certificate of vaccination against rabies pursuant to NAC 441A.440.

(C) QUARANTINE OF BITING DOGS:

(1) The rabies control authority shall cause a dog or cat, regardless of current

vaccination against rabies, which has bitten a person to be quarantined and observed for ten (10) days following the bite under the supervision of a licensed veterinarian or other person designated by the rabies control authority. The observation must be within an enclosure or with restraints deemed adequate by the rabies control authority to prevent direct contact with a person or animal.

(2) The dog or cat must be examined by a licensed veterinarian at the first sign of illness during the ten (10) days of observation. Any illness must be reported immediately to the rabies control authority. If signs of rabies develop during the ten (10) days of observation the dog or cat must be euthanized and its head removed and shipped under refrigeration for examination at the laboratory of the department of agriculture. If at the end of the quarantine period, the animal is free of all signs of rabies, the animal must be returned to its owner upon payment of all costs of quarantine and veterinary care and examination.

(3) If, after a reasonable effort is made to locate the owner of an unwanted or stray dog or cat, the owner is unknown or cannot be located, or if the owner agrees, the unwanted or stray dog or cat which has bitten a person may be euthanized and the head submitted for laboratory examination without a period of quarantine.

(4) A bat, raccoon, skunk, fox or ferret which has bitten a person must be euthanized immediately without a period of quarantine and the head submitted for laboratory examination.

(D) QUARANTINE OF ANIMALS IN CLOSE CONTACT WITH ANIMALS KNOWN OR SUSPECTED OF HAVING RABIES:

(1) Except as otherwise provided in this section, a wild or exotic animal that is rabies-susceptible, including an unvaccinated ferret, in close contact with an animal suspected or known to have rabies must be euthanized immediately. The rabies control authority may exempt a rare or valuable animal from the provisions of this section.

(2) Unless the owner of the animal objects, a dog or cat which has not been vaccinated pursuant to NAC 441A.435 and which is considered by the rabies control authority to have been in close contact with an animal suspected or known to have rabies, must be euthanized immediately. If the owner of the animal objects, the dog or cat must be immediately vaccinated against rabies and quarantined within an enclosure or with restraints deemed adequate by the rabies control authority to prevent direct contact with a person or animal for a period of one hundred eighty (180) days, under the supervision of a licensed veterinarian or other person designated by the rabies control authority. The dog or cat must be vaccinated one month before release.

(3) A dog, cat or ferret which has been vaccinated pursuant to NAC 441A.435 and which is considered by the rabies control authority to have been in close contact with an animal suspected or known to have rabies, must be:

(a) Immediately revaccinated and confined for ninety (90) days in a

manner prescribed by the rabies control authority; or

(b) Upon the request of the owner of the dog, cat or ferret, euthanized.

(4) A domesticated animal of a rabies-susceptible species, other than a dog, cat or ferret, which is considered by the rabies control authority to have been in close contact with an animal suspected or known to have rabies, must be managed according to the discretion of the rabies control authority.

(5) As used in this section, "in close contact with an animal suspected or known to have rabies" means, within the past one hundred eighty (180) days, to have been bitten, mouthed or mauled by, or closely confined on the same premises with an animal either suspected or known to have rabies.

(E) PARTY RESPONSIBLE FOR PAYMENT OF QUARANTINED ANIMAL: The owner of an animal quarantined pursuant to the provisions of this chapter is responsible for all costs of quarantine, veterinary care, examination and disposal.

(F) RABIES CONTROL REPORTING REQUIREMENTS: The rabies control authority shall report all cases, suspected cases or carriers of rabies in accordance with NAC 441A.225 through 441A.260.

6.01.08: DISPOSITION OF REVENUE: All monies collected under this chapter, unless otherwise provided by the Council, shall be used to improve, keep up and/or maintain the animal control facilities or to defray the cost of implementing this chapter.

6.01.09: ANIMALS AT LARGE, EXCLUDING DOGS AND CATS

(A) ANIMALS KEPT ON PREMISES: Every person who is the owner of or has the care, custody or control of any livestock, poultry, rabbits or any other rodent, or any wild or domestic animal, excluding dogs and cats, in the city shall keep the same upon the premises under the control of such person, restrained by a fence, cage, coop, chain, leash or other adequate means so that the animal shall not leave the premises upon which it shall be kept.

(B) Any person who owns or has under his care or management any such animals and permits them, or any of them, to run at large within the boundaries of the City of Fernley shall be guilty of a misdemeanor. (ORD 2008-008)

(C) This section does not apply to, nor has any legal affect upon, the use of legally permitted livestock grazing rights. (ORD 2009-014)

6.01.10: DANGEROUS OR VICIOUS ANIMALS--DECLARATION.

(A) Except as otherwise provided in subsection B of this section:

(1) An animal may be declared dangerous by the animal control officer if it constitutes a physical threat to human beings or to other animals and, on two separate occasions within eighteen months:

(a) It behaves menacingly to a degree that would lead a reasonable person to defend himself against substantial bodily harm; or
(b) It bites a person, but without causing substantial bodily harm.

(2) An animal may be declared dangerous by the animal control officer if it constitutes a physical threat to human beings or to other animals and, without regard to any previous behavior:
(a) It is used in the commission of a crime by its owner or keeper;
(b) While either at large or restrained, it causes serious injury or death to another animal that is not at large or is not otherwise in violation of this title; or
(c) It exhibits a condition or behavior which causes the animal control officer to believe the animal is a threat to public safety.

(3) An animal may be declared vicious by the animal control officer if it constitutes a physical threat to human beings or to other animals and:
(a) It has killed or inflicted substantial harm upon a human being or other animal; or
(b) After having previously been declared dangerous, with notice of the declaration having been provided to the owner or keeper, it continues to exhibit the same type of behavior which resulted in the declaration, or is in violation of the provisions of this Section.

(B) EXCEPTIONS

(1) An animal may not be declared dangerous pursuant to this Section for constituting a physical threat:
(a) To another animal which, or person who, provoked the animal as a result of and to the extent of the provocation;
(b) To another animal which, or person who, was unlawfully upon premises owned or occupied by the owner or keeper of the animal constituting the threat;
(c) To another animal which was running at large or otherwise in violation of this title; or
(d) In connection with its use by law enforcement officers in the performance of their duties.

(2) An animal may not be declared vicious pursuant to this Section for constituting a physical threat:
(a) To another animal which, or person who, provoked the animal, as a result of and to the extent of the provocation;
(b) To another animal which, or person who, was unlawfully upon premises owned or occupied by the owner or keeper of the animal constituting the threat; or
(c) In connection with its use by law enforcement officers in the performance of their duties.

6.01.11: DANGEROUS OR VICIOUS ANIMALS--OWNERSHIP/AT LARGE UNLAWFUL. It shall be unlawful for:

(A) Any person to knowingly possess, house, shelter, quarter, own or in any other way have under his control, or to transfer ownership of, a vicious or dangerous animal within the city, except as provided in this chapter; or
(B) The owner, or any person having possession, custody or control, of a dangerous or vicious animal to permit the animal to be at large.

6.01.12: DANGEROUS ANIMALS--OWNERSHIP PERMITTED WHEN:
Any animal which is declared to be dangerous by the animal control officer may be kept within the City, provided that:
(A) Within fourteen days after the owner or keeper is notified of the declaration, the area in which the owner or keeper intends to keep the animal must pass an inspection by the animal control officer, and the owner or keeper must obtain from the animal control officer a permit to keep the animal, based upon such terms and conditions as the animal control officer deems appropriate. A nonrefundable inspection fee of fifty ($50.00) dollars will be charged the owner or keeper. For purposes of this subsection, notice of the declaration shall be deemed complete if it is served personally, or upon mailing by certified mail, return receipt requested, sent to the last known address of the owner or keeper.
(B) The animal shall be kept, confined or housed within an enclosure:
    (1) That will ensure the animal's retention and comfort, is of a size to permit the animal to stand upright, and is of a dimension deemed adequate by the animal control officer; and
    (2) That is secure enough so that the animal cannot bite, harm or injure anyone by overreaching the top of the fence or other enclosure.
(C) At no time shall the animal be allowed to leave the private property confines of the owner or person in charge of the animal unless it is muzzled, leashed and under the effective control of an adult.
(D) The private property shall be adequately and properly posted with conspicuous warning signs, with a listing of the name and telephone number of the owner of the animal.
(E) The animal must be sterilized by a licensed veterinarian. The owner or keeper shall maintain all sterilization records, including the type of animal sterilized, the name of the veterinarian performing the procedure, and the date the sterilization was performed.
(F) The animal shall be implanted with an electronic microchip from a manufacturer approved by the animal control officer. The implantation must be performed by a licensed veterinarian and must conform to procedures recommended by the manufacturer. The owner or keeper shall register the microchip number in a national database in accordance with instructions from the manufacturer, and shall provide the number to the animal control officer.
(G) The owner or keeper shall obtain and maintain in effect a policy of liability insurance in the amount of not less than fifty thousand ($50,000.00) dollars insuring against possible injuries inflicted by the dangerous animal. The liability insurance shall be maintained in effect as long as the owner or keeper maintains possession of the dangerous animal.

(H) The owner of a dangerous animal may not sell, relocate or give away the animal without first obtaining prior written approval from an animal control officer. If such a transaction is approved, the owner or transferee shall pay a nonrefundable inspection fee of fifty ($50.00) dollars for inspection of the new location for the animal. The owner or transferee shall also have the national microchip number updated in the national database to reflect the change in ownership, and shall provide evidence of the update to the animal control officer.

6.01.13: PERMIT REVOCATION CONDITIONS.

(A) Any permit issued under this Section shall be revoked if the animal, without provocation, bites or attempts to bite any person or animal lawfully upon the permit holder's property or upon any other property.

(B) Any person who keeps a dangerous animal after his permit has been revoked or any person who keeps, houses, quarters, or in any way has under his care or custody a dangerous animal without first obtaining a permit as set forth in this Section is guilty of a misdemeanor.

6.01.14: CRIMINAL COMPLAINT

(A) The owner or keeper of any animal declared vicious by an animal control officer shall be notified by personal service or by certified mail, return receipt requested, sent to the last known address of the owner or keeper. Within ten days after notice has been served personally or deposited in the mail, the owner or keeper shall voluntarily transfer possession of the animal to the animal control officer and do one of the following:

(1) Voluntarily relinquish ownership of the animal for euthanasia in accordance with the provisions of Chapter 638 of the Nevada Revised Statutes and any regulations promulgated pursuant thereto, as amended from time to time;

(2) Provide written proof to the animal control officer that the animal has been euthanized by a properly licensed veterinary clinic; or

(3) File with the animal control officer a written request for hearing before the City Council to determine if the declaration that the animal is vicious should be upheld. The owner or keeper may not maintain possession of the animal during the hearing process.

(B) If a hearing is requested within the specified time period, the animal control officer shall convene the City Council no later than forty-five days after receipt of the written request for hearing. The City Council shall act expeditiously to decide the matter by a majority vote of its members and may:

(1) Uphold the vicious animal declaration;

(2) Recommend that the owner or keeper obtain a dangerous animal permit, if appropriate; or

(3) Take such other action as it deems appropriate.

(C) If the City Council upholds the vicious animal declaration, the animal control officer may proceed to destroy the animal, but not until at least ten days have elapsed from the date the owner or keeper receives notice of the decision. Within that ten-day period, the owner or keeper of the animal shall have the right to seek appropriate relief in the municipal court.

(D) As an alternative to the procedure set forth in subsections A through C of this section, the question of whether an animal should be declared vicious may be referred to the municipal court in connection with the filing and processing of a criminal complaint. The Animal Control Department shall hold an informal hearing and report its findings and recommendations to the court. If a defendant is found guilty of violating this title and the Animal Control recommends that the animal be destroyed, the court may order the destruction of the animal as part of the defendant's sentence. The court is not bound by any recommendations of the Animal Control Department and may in its discretion order that an animal be destroyed notwithstanding a contrary recommendation by the committee. (ORD 2009-012)

6.01.15: PENALTY: The violation of any section of this chapter is (as prescribed for) a misdemeanor.

6.01.16: REGULATIONS FOR THE POSSESSION AND SALE OF EXOTIC AND DANGEROUS ANIMALS.

(A) PERMIT REQUIRED:

(1) It is unlawful for any person to own, possess, keep, harbor, sell, bring, or have in one’s possession an exotic animal(s) within city limits without a permit issued by Fernley Animal Control and in abeyance of all state or federal statutes, which supersede this title.

(2) It is unlawful for the owner, possessor, or any other person in control of a lot, tract, or parcel of land within city limits or any residence or business premises situated thereon to knowingly permit any other person to be in possession of an exotic animal upon the property, residence or premises.

(B) APPLICATION:

(1) Shall consist of applicant's name, address, home and work numbers.

(2) Shall consist of an address where exotic animal is to be permanently sheltered, APN, and location of property.

(3) A pending application or an issued permit are non transferable.

(4) The application for a permit shall be reviewed and approved upon the following:

(a) An inspection of the site where the animal(s) will be kept. The animal(s) shall be kept in safe and humane area that meets applicable state and federal standards;

(b) Verification of applicable state or federal licenses; and

(c) Verification of veterinary records.

(C) TERMS AND CONDITIONS:

(1) Permit will remain valid and in force for as long the permit holder owns the animal.

(2) Permit voids when applicant or animals address changes. A new permit then shall have to be applied for and obtained.

(3) The City of Fernley shall perform bi-annual inspections of permitted premises to evaluated sanitary, housing and safety conditions, veterinary records, and status of Federal or State permits. The holder of the permit shall be notified prior to inspection.

(4) Failure to comply with the conditions stated above, may result in revocation proceedings prescribed in paragraph D, below.

(D) REVOCATION: A permit may be revoked by public hearing before the City Council. Prior to scheduling a revocation hearing with the City Council, notice shall be given to the holder of the permit at least fifteen (15) days prior to the hearing. The public hearing shall be conducted in accordance with the open meeting law. Upon revocation, the animal shall be removed from the premises. The following conditions may result in a revocation hearing:

(1) Unsafe and unsanitary conditions.

(2) Expiration of any Federal or State permits.

(3) Missing or irregular veterinary records.

(4) Failure to grant an inspection.

(E) DEFINITIONS:

(1) That for purposes of this ordinance “exotic animal” means any animal that is not normally domesticated in the United States or is wild by nature. Of the following orders and families, whether bred in the wild or in captivity, and also any or all of their hybrids with domestic species. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or to limit the generality of each group of animals.

(a) Canidae (wolves, coyotes, foxes, jackals, but not domesticated dogs)

(b) Felidae (lions, tigers, bobcats, cougars, leopards, jaguars, lynx, mountain lions, but not domesticated cats)

(c) Ursidae (bears)

(d) Crocodilia (alligators, crocodiles)

(e) Cervidae (antlered mammals, deer, antelope, moose, elk)

(f) Venomous snakes and constricting snakes

(g) Pachiderms (rhinoceros, elephant, hippopotamus)

(h) Artiodactyla (hippopotamus)

(i) Pessodactla (rhinoceroses)

(j) Marsupialla (kangaroos)

(k) Hyaenidae (hyenas)

(l) Viverridae (mongooses, civets and genets)

(F) EXCEPTIONS:

(1) Any zoo, circus, research facility licensed or registered by a federal agency and approved by the City;

(2) Any person accredited by the Association of Sanctuaries or the American Sanctuary Association;

(3) Any state college, university, or agency, state-licensed wildlife rehabilitator or State licensed veterinarian;

(4) Any incorporated humane society, animal shelter, or society for the prevention of cruelty to animals;

(5) Any federally-licensed and inspected breeder or dealer that is conducting any breeding or dealing activity with a person referred to in this paragraph; or

(6) Any person having custody of a wild animal solely for the purpose of transporting the animal to a person referred to in this paragraph. (ORD 2003-010)

CHAPTER 2: MISCELLANEOUS OFFENSES

6.02.01: FIREWORKS: It is unlawful for any person to sell, offer for sale, discharge or set off any rocket, squib, firecracker or other fireworks of any description within the City.

The penalty for provisions of this Section shall be as prescribed in Section 1.04.01 of this Code.

6.02.02: DISCHARGE OF WEAPONS IN CONGESTED AREA:

(A) DISCHARGE UNLAWFUL: It is unlawful for any person to discharge or cause to be discharged any ordnance, gun, rifle, pistol or other firearm of any nature whatsoever in any area of the City.

(B) VIOLATION; PENALTY: Any person violating the terms of this Section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided for a violation of a misdemeanor under State law.

6.02.03: INTERFERENCE WITH LAW ENFORCEMENT DOGS: It is unlawful for any person to willfully aggravate, annoy, harm or otherwise interfere or attempt any such act with any dog used by a law enforcement agency in the performance of the functions or duties of any such agency. Any person violating any provision of this Section shall be deemed guilty of a misdemeanor.

6.02.04: POLITICAL SIGNS:

(A) TIME LIMITS: Political signs may be erected no more than sixty (60) days before a primary election and shall be removed by the candidate within thirty (30) days after the applicable election.

(B) PROHIBITED LOCATIONS: No political signs of any nature may be placed on City of Fernley property or City of Fernley rights of way. This includes the right of way on either side of a paved or unpaved road, right of way for future roads, and all other City property which is used or occupied.

(1) Political signs erected in these areas are a violation of law and may be removed by City of Fernley without notice. When practicable, the City will provide a seven (7) day notice (which may be served by telephoning the violating party or posting the sign with a violation warning) prior to removing signs. Removed signs will be retained for thirty (30) days and then destroyed.

(C) COMPLIANCE: All political signs shall comply with other local, State and Federal law.

(D) CRIMINAL PENALTIES: Any person who violates the provisions of this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by not more than six (6) months imprisonment in the Lyon

County Jail or by a fine of not more than one thousand dollars ($1,000.00) or by both such fine and imprisonment.

(E) CIVIL PENALTIES: Any person who violates the provisions of this Section shall be subject to a five hundred dollar ($500.00) fine and the person responsible for the violation shall be liable for the costs of removing any sign not in compliance with this Section.

CHAPTER 3: MINORS

6.03.01: CURFEW:

(A) AGE AND HOUR RESTRICTIONS: Except as otherwise provided herein, it is unlawful for any person under the age of eighteen (18) years to frequent the streets, alleys or other public or unoccupied grounds or places in the City of Fernley between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. Sundays through Thursdays and between the hours of twelve o'clock (12:00) midnight and six o'clock (6:00) A.M. on weekends. This subsection shall be construed as establishing a curfew on Friday night, commencing at twelve o'clock (12:00) A.M. Saturday and Saturday night, commencing at twelve o'clock (12:00) A.M. Sunday.

(B) EXCEPTIONS: Nothing contained in this Section shall be construed to apply to any child or children who are in the company of a parent, parents, guardian or guardians nor to any child or children whose lawful employment makes it necessary for them to be upon the streets, alleys or other public or unoccupied grounds or public places during the nighttime as aforesaid.

(C) RESPONSIBILITY OF PARENTS AND GUARDIANS: It is unlawful for any parent, parents, guardian or guardians or any other person having the legal care, custody or control of any person under the age of eighteen (18) years to allow or permit any such child or minor to loiter about or frequent any streets, alleys or other public or unoccupied grounds or public places in the City between the hours set forth in subsection A hereof unless there is a reasonable, proper and lawful necessity therefor.

(D) VIOLATIONS AND PENALTIES: Any adult person violating the terms of this Section is guilty of a misdemeanor, and any minor violating the provisions of this Section shall be adjudicated pursuant to NRS chapter 62.

6.03.02: POSSESSION OR CONSUMPTION OF LIQUOR:

(A) POSSESSION: It is unlawful for any person under the age of twenty one (21) years to have in his possession any container including, but not restricted to, any can, bottle or jug or other receptacle containing alcoholic beverages including, but not restricted to, spirituous, malt or fermented liquors or wines. The possession can be actual or constructive and includes the presence of the containers on the person and in any automobile, house, apartment or other lodging over which the person has an actual or constructive control.

(B) CONSUMPTION: It is unlawful for any person under the age of twenty one (21) years to consume an alcoholic beverage, including but not restricted to, spirituous malt or fermented liquors or wines. A person is presumed to have consumed alcohol if he exhibits any of the indicia of alcohol consumption in the presence of a peace officer.

(C) VIOLATION: Any person violating the terms of this Section is guilty of a misdemeanor.

6.03.03: PARENTAL RESPONSIBILITY FOR MINORS:

(A) DEFINITIONS: As used in this Section, unless the context otherwise requires, the terms specified herein have the meanings ascribed to them:

LEGAL GUARDIAN: A person appointed guardian or given custody of a minor by a district court of the State, but does not include a person appointed guardian or given custody of a minor under NRS chapter 62.

MINOR: A person who is above the age of eleven (11) years but not yet nineteen (19) years of age.

(B) VIOLATIONS AND PRESUMPTIONS: The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary, to have failed to exercise proper parental responsibility, and said minor shall be deemed to have committed the acts described below with the knowledge and permission of the parent or guardian, in violation of this Section upon the occurrence of the events described in paragraphs 1, 2 and 3 of this subsection:

(1) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law or statute prohibiting willful and malicious acts causing injury to a person or property or shall have incurred nonjudicial sanctions from another official agency resulting from an admission of guilt or violation of any ordinance, law or statute prohibiting willful and malicious acts causing injury to a person or property; and

(2) The parent or legal guardian shall have received a written notice hereof, either by certified or registered mail, return receipt requested, or by personal service, with a certificate of personal service returned from the County Sheriff's office following said adjudication or nonjudicial sanction; and

(3) If, at any time within one year following receipt of the notice set forth in subsection B2 above, said minor is either adjudicated to be in violation of any ordinance, law or statute, as described in subsection B1 hereof, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law or statute as described in subsection B1 hereof.

(C) PENALTY: Any person convicted of any violation of the provisions of this Section shall be fined not less than twenty five dollars ($25.00) nor more than five hundred dollars ($500.00) for each offense.

CHAPTER 4: PARADES AND ASSEMBLAGES

6.04.01: Purpose: The purpose of this chapter is to protect the public safety and lessen traffic problems in the City of Fernley.

6.04.02: Permits:

(A) PERMIT REQUIRED: It is unlawful for any person to sponsor, organize or hold a parade or outdoor assemblage requiring the closure of or interference with a City road or right of way within the City of Fernley without first securing a parade permit.

(B) PERMIT PROCESS: An application and permit for temporary occupancy of a City of Fernley right of way may be obtained from the office of the city manager. If the planned event includes the closure of a state highway, a permit must also be obtained from the Nevada department of transportation. Prior to returning the application to the city manager for consideration and holding the event, approval must be obtained from:

(1) The sheriff's department;

(2) The fire district with jurisdiction over the area; and

(3) Lyon County public works, road division if the event affects any Lyon County road or right of way.

(4) City of Fernley public works, road division.

(C) PERMIT GRANTED: The City Manager, after approval from the Sheriff's department, fire district and public works road division, may approve the permit if the city manager determines that the event will not be detrimental to the health, safety and traffic in the City of Fernley. After approval, the event described in the application may be held on the date and time specified, subject to the terms and conditions of the permit and application.

(D) CONDITION OF RIGHTS OF WAY; DAMAGE: The applicant is responsible for the condition of the City of Fernley roads or rights of way used in the parade or outdoor assemblage and those persons shall leave the road or right of way in the same condition as prior to the event. The applicant shall pay for any damage to the road or right of way occurring during the event.

(E) PENALTY: The penalty for violations of provisions of this chapter shall be as prescribed in section 1.04.01 of this code.

CHAPTER 5: GRAFFITI

6.05.01 DEFINITION: As used in this Chapter:
"Graffiti" is defined as any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn or painted on the public or private property, real or personal, of another, which defaces such property.

"Graffiti implement" means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

6.05.02: PROHIBITED ACTS:

(A) DEFACEMENT: It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any City-owned property or, without the permission of the owner or occupant, on any non-City owned property.

(B) POSSESSION OF GRAFFITI IMPLEMENTS:

(1) By Minors at or Near School Facilities. It shall be unlawful for any person under the age of eighteen (18) years to possess any graffiti implement while on any school property, grounds, facilities, buildings, or structures, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such property. The provisions of this Section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class or other approved activity at the school that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.

(2) In Designated Public Places. It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the City or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure, unless otherwise authorized by the City.

6.05.03: ACCESSIBILITY TO GRAFFITI IMPLEMENTS:

(A) FURNISHING TO MINORS PROHIBITED. It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, broad-tipped marker, or paint stick to any person under the age of eighteen (18) years without the written consent of the parents or legal guardian of the person.

(B) SIGNAGE REQUIRED. Every person who operates a retail commercial

establishment selling graffiti implements shall:

(1) Place a sign in clear public view at or near the display of such products stating: "Graffiti is against the law. Any person who defaces real or personal property with paint or any other liquid or device is guilty of a crime punishable by imprisonment of up to six (6) months and/or a fine up to one thousand dollars ($1,000.00)".

(2) Place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: "Selling spray paint, paint sticks, or broad-tipped markers to persons less than eighteen (18) years of age is against the law and punishable by a fine up to one thousand dollars ($1,000.00)".

6.05.04: PENALTIES.

(A) FINES AND IMPRISONMENT. Any person violating this Ordinance shall be punished by a fine of two hundred and fifty dollars ($250.00) for a first offense; five hundred dollars ($500.00) for the second offense; and one thousand dollars ($1,000.00) for each subsequent offense; or by imprisonment for a term not to exceed six (6) months, or by both fine and imprisonment at the discretion of the Court.

(1) The minor or adult shall perform not less than fifty (50) hours but not more than ninety-nine (99) hours of community service for the first offense; not less than one hundred (100) hours but not more than one hundred ninety-nine (199) hours of community service for the second offense; and not less than two hundred (200) hours of community service for the third and each subsequent offense.

(2) At least one (1) parent or guardian of the minor shall be in attendance a minimum of fifty percent (50%) of the period of assigned community service.

(3) The entire period of community service shall be performed under the supervision of a community service provider approved by the Court.

(4) Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the minor or adult, including community service that involves graffiti removal.

6.05.05: GRAFFITI AS NUISANCE.

(A) REMOVAL BY THE PERPETRATOR. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by the City, the Director of Public Works, or any additional City department head, as authorized by the City Council. Any person applying graffiti shall be responsible for the removal or the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Ordinance. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment of the

removal.

(B) PROPERTY OWNER RESPONSIBILITY. If graffiti is not removed by the perpetrator according to the Section above, graffiti shall be removed pursuant to the following provisions:

It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:

(1) The street address and legal description of the property sufficient for identification of the property;
(2) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;
(3) A statement that the graffiti must be removed within ten (10) days after receipt of the notice and that if the graffiti is not abated within that time, the City will declare the property to be a public nuisance, subject to the abatement procedures in the City Code Section 6.01.07; and
(4) An information sheet identifying any graffiti removal assistance programs available through the City and private graffiti removal contractors.

(C) EXCEPTIONS TO PROPERTY OWNER RESPONSIBILITY. The removal requirements above shall not apply if the property owner or responsible party can demonstrate that:

(1) The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or
(2) The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which cause, it shall be unlawful to permit such property to remain defaced with graffiti for a period of fifteen (15) days after service, by first class mail, of notice of the defacement.

(D) RIGHT OF CITY TO REMOVE.

(1) Use of Public Funds. Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property, viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repainting of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the City Manager, or the designee of the City Manager, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area; and

(2) Right of Entry on Private Property. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal, the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Ordinance, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this Section, the City shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below.

(E) ABATEMENT AND COST RECOVERY PROCEEDINGS.

(1) Notice of Due Process Hearing. The City Manager, or the designee of the City Manager, serving as the Hearing Officer, shall provide the property owner of record and the party responsible for the maintenance of the property, if a person different from the owner, not less than forty-eight (48) hours notice of the City's intent to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action in accordance with NRS 5.060 and N.R.C.P. 4. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a newspaper of general circulation published in the area in which the property is located pursuant to N.R.C.P. 4;

(2) Determination of Hearing Officer. The determination of the Hearing Officer after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of the attendance of the owner or the responsible party or their respective agents, the Hearing Officer determines that the property contains graffiti viewable from a public or quasi-public place, the Hearing Officer shall give written notice in an eradication order that, unless the graffiti is removed within ten (10) days, the City shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Hearing Officer), or such other eradication thereof as the Hearing Officer determines appropriate, and shall provide the owner and the responsible party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis;

(3) Eradication Effort. Not sooner than the time specified in the order of the Hearing Officer, the City Manager, or the designee of the City Manager, shall implement the eradication order and shall provide an accounting to the owner and the responsible party of the costs thereof;

(4) Cost Hearing. The owner or responsible party may request a cost hearing before the Hearing Officer on the eradication accounting, and appropriate due process must be extended to the owner or responsible party. If

following the cost hearing or, if no hearing is requested, after the implementation of the eradication order, the Hearing Officer determines that all or a portion of the costs are appropriately chargeable to the eradication effort, the total amount set forth in the eradication accounting, or an amount thereof determined as appropriate by the Hearing Officer, shall be due and payable by the owner or responsible party within thirty (30) days. Any amount of eradication charges assessed by the Hearing Officer that are less than the total amount set forth in the eradication accounting shall be explained by written letter from the Hearing Officer to the City Council. (ORD 2006-006)

TITLE 7: MOTOR VEHICLES AND TRAFFIC

CHAPTER 1: GENERAL TRAFFIC PROVISIONS

7.01.01: DEFINITIONS: As used in this Title, the following words and phrases shall have the meanings indicated in this Section:

ALLEY: As defined in the City of Fernley Development Code (10.01.01).

AUTHORIZED EMERGENCY VEHICLE: A vehicle of any Fire Department, Sheriff's patrol and such ambulance and emergency vehicles of municipal departments, county or public service corporations as are designated or authorized by the State.

BICYCLE: Every device having two (2) tandem wheels, which device is propelled by human power and upon which any person may ride.

BOULEVARD: A through street or highway.

COMMERCIAL VEHICLE: A vehicle of a type used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property.

CROSSWALK:
(A) That portion of a street ordinarily included within the prolongation or connection of the boundary lines of sidewalks at intersections where the intersecting streets meet at approximately right angles except the prolongation of any such lines from any alley across the street, or

(B) Any portion of a street distinctly indicated for pedestrian crossing by lines or other markings on the surface.

DRIVER: A person who drives or is in actual physical control of a vehicle.

GARAGE: A building or other place wherein the business of storing or safekeeping vehicles which belong to drivers or members of the public, is conducted for compensation.

HIGHWAY: For a definition of "highway", see definition of "street" herein.

INTERSECTION: The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of two (2) or more highways which join one another at an angle, whether or not one highway crosses the other.

LOADING ZONE: That space adjacent to a curb reserved for the exclusive use of

vehicles during the loading or unloading of passengers or materials, so marked or indicated by adequate signs as to be plainly visible at all times.

MOTOR VEHICLE: Every vehicle which is self-propelled but not operated on rails.

MOTORCYCLE: Every motor vehicle equipped with a seat or saddle for the use of the driver and designed to travel on not more than three (3) wheels in contact with the ground, including a power cycle but excluding a tractor.

MUFFLER: A device consisting of a series of chambers or baffle plates or other mechanical design, for the purpose of receiving exhaust gas from an internal combustion engine and is effective in reducing noise, but does not include such a device equipped with an apparatus which permits the exhaust gas to be discharged directly into the air without passing through such device.

OFFICIAL TRAFFIC SIGNS AND SIGNALS: All signs, signals, markings and devices not inconsistent with this Title placed or erected by authority of a public body or official having jurisdiction for the purpose of guiding, directing, warning or regulating traffic.

OPERATOR: Every individual who operates a vehicle as the owner thereof or who has control of a vehicle.

OWNER: A person who holds the legal title to a vehicle or, in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with right or agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgager of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgager shall be deemed the owner for the purpose of this Title.

PARK or PARKING: The standing of a vehicle, whether occupied or not, upon a street otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers or in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason of cause beyond the control of the operator of the vehicle.

PARKING METER: Any mechanical device or meter not inconsistent with this Title, placed or erected for the regulation of parking by authority of this Title. Each parking meter installed shall indicate by proper legend the legal parking time established by the city and, when operated, shall at all times indicate the balance of legal parking time and at the expiration of such period, shall indicate illegal or overtime parking.

PARKING METER DISTRICT: Any restricted street upon which parking meters are installed and in operation.

PARKING METER SPACE: Any space within a parking meter district, adjacent to a parking meter and which is duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street adjacent to or adjoining the parking meter.

PEDESTRIAN: A person who goes or travels on foot.

PNEUMATIC TIRE: A tire inflated or capable of inflation with compressed air.

PRIVATE ROAD or DRIVEWAY: A road or driveway not open to the use of the public for purposes of vehicular travel.

REPAIR SHOP: A place where vehicles are repaired, rebuilt, reconditioned, repainted or in any way maintained for the public at a charge.

RIGHT OF WAY: The privilege of the immediate use of the highway.

ROADWAY: That portion of a street or highway between the regularly established curb lines or that part improved and intended to be used for vehicular travel.

SEMI-TRAILER: A vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

SIDEWALK: That portion of a street between the curb lines and the adjacent property lines.

STREET or HIGHWAY: A way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel and shall be deemed to include a roadway or driveway upon grounds owned by public or semi-public institutions.

THROUGH STREET or THROUGH HIGHWAY: A street or highway or portion thereof at the entrance to which vehicular traffic from intersecting highways or streets is required by law to stop before entering or crossing the same.

TRAFFIC: Pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together, while using any street for purposes of travel.

TRAFFIC-CONTROL SIGNAL: Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

TRAILER: A vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

VEHICLE: A device upon or by which any person or property is or may be transported upon a highway, except a device which is operated upon rails or tracks.

7.01.02: COMPLIANCE WITH PROVISIONS; INTERPRETATION:

(A) COMPLIANCE WITH PROVISIONS:

(1) No person shall fail to comply with the provisions of this Title.

(2) No owner, lessor or lessee of a motor vehicle or any person employing or otherwise directing the driver of a motor vehicle shall permit the operation of a motor vehicle upon a street or highway when such vehicle is equipped otherwise than is required or permitted by this Title or by the laws of the State.

(B) CONFLICTS WITH STATE LAW: TRAFFIC AND MOTOR VEHICLE CODE. The City of Fernley adopts the Motor Vehicle Code regulating the operation, registration and licensing of motor vehicles with the City. Said Code consists of Chapters 482, 483 and 484 of the Nevada Revised Statutes. The commission of any act within the limits of the City of Fernley, or the failure to perform any act within the City, which is made a misdemeanor by the said section of the law of the State of Nevada, constitutes a violation of this ordinance. (FTO 2 amended October 27, 1987)

Whenever the provisions of this title are in conflict with the provisions of Title 43 (Public Safety; Vehicles; Water Craft) as, from time to time amended, the provisions of NRS Title 43 shall prevail.

7.01.03: CERTAIN PERSONS PROHIBITED FROM DRIVING:

(A) MINORS: No person shall cause or knowingly permit his child or ward under the age of sixteen (16) years to drive a motor vehicle upon any street or alley within the City when such minor is not authorized hereunder or is in violation of any provision of this Title.

(B) UNLICENSED DRIVERS: No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any street or alley within the City by any person who is not authorized hereunder or is in violation of any provisions of this Title.

(C) LICENSE REVOKED OR SUSPENDED: Whenever the Department of Motor Vehicles of Nevada has suspended or revoked the license of any operator or chauffeur, such operator or chauffeur shall not operate a vehicle on the streets or alleys within the City during the period of suspension or revocation.

7.01.04: OBEDIENCE TO SHERIFF: Officers of the Sheriff's Department are authorized to direct all traffic by voice, hand or signal in conference with traffic laws; provided, that in the event of fire or other emergency, Sheriff's officers may direct traffic as conditions may require, notwithstanding provisions of traffic laws. No person shall refuse or fail to comply with any lawful order, signal or direction of any Sheriff's officer of the County.

7.01.05: GOVERNMENT AND PUBLIC WORKS VEHICLES:

(A) The provisions of this Title are applicable to the drivers of all vehicles owned or operated by the United States, the State or any county, city, town, district or any other political subdivision, subject to such specific exceptions as are set forth in this Title with reference to authorized emergency vehicles.

(B) The provisions of this Title shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a street or highway but shall apply to such persons and vehicles when traveling to or from such work.

7.01.06: ANIMALS OR BICYCLES: Every person riding a bicycle or an animal upon a roadway and every person driving an animal shall be subject to the provisions of this Title applicable to the driver of a vehicle, except those provisions of this Title which by their nature can have no application.

7.01.07: ACCIDENTS:

(A) DUTY WHEN STRIKING PERSON OR OCCUPIED VEHICLE:

(1) Whenever any vehicle strikes any person or collides with an occupied vehicle, the driver of such vehicle and all persons in such vehicle who have or assume authority over such driver shall immediately cause such vehicle to stop and shall render to the person struck or the occupant of the vehicle collided with all necessary assistance.

He shall also give to the occupant of such vehicle or person struck the number of his vehicle, the name and address of the owner thereof and the name and address of such driver and of such passenger in the vehicle at the time of such striking or collision.

(2) Every driver shall, within twenty four (24) hours, make or cause to be made a full report of such collision, with all details and circumstances thereof, to the Sheriff's Department.

(B) DUTY WHEN STRIKING UNOCCUPIED VEHICLE OR ANIMAL: Whenever any vehicle strikes an unoccupied vehicle or animal or any other object of any nature whatsoever, the driver of such vehicle and all persons in such vehicle who have or assume authority over such driver shall immediately cause such vehicle to stop and shall ascertain the name of the owner of the vehicle or animal or other object so struck and the license number of any such vehicle and shall immediately make a full report of such collision, with all details and

circumstances thereof, to the Sheriff's Department.

7.01.08: PERSONS UNDER INFLUENCE OF LIQUOR OR DRUGS:

(A) DRIVING VEHICLES OR ANIMALS:

(1) PROHIBITIONS: No person, while intoxicated or under the influence of intoxicating liquor or stimulating or stupefying drugs, shall drive or conduct any vehicle or ride any animal on any street, highway or alley in the City.

(a) It is unlawful for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of a vehicle within the City in accordance with Nevada Revised Statutes.

CHAPTER 2: TRAFFIC-CONTROL SIGNS, SIGNALS AND MARKINGS

7.02.01: UNIFORM SYSTEM:

(A) The City, with the assistance of the electrical engineer, subject to the approval of the City Council, may determine the character or type and place or erect upon the streets and highways traffic-control signals at places where he shall deem necessary for the safe and expeditious control of traffic. So far as practicable, all such traffic-control signals shall be uniform as to type and location.

(B) The City, with the assistance of the City Engineer, shall cause to be erected and maintained signs designating railway grade crossings and such other signs, markings and traffic-control signals as may be deemed necessary to direct and regulate traffic and carry out the provisions of this Title and such additional signs as may be appropriate to give notice of parking and other regulations.

7.02.02: OBEDIENCE TO TRAFFIC-CONTROL SIGNS AND SIGNALS:
No driver of any vehicle or the person in charge of any animal or any pedestrian shall disobey the instructions of any official traffic sign or signal placed in accordance with the provisions of this Title unless otherwise directed by a deputy sheriff.

7.02.03: UNAUTHORIZED SIGNS OR SIGNALS: No person shall place, maintain or display upon or in view of any street or highway any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic sign or signal, and no person shall erect or maintain upon any street or highway any traffic or highway sign or signal bearing thereon any commercial advertising.

Nothing in this Section shall be construed to prohibit the erection of the name of an organization authorized to erect the same by the appropriate public authority.

Every prohibited sign, signal or device is a public nuisance, and the County Sheriff shall remove the same or cause it to be removed without notice

7.02.04: INTERFERENCE WITH SIGNS PROHIBITED: No person shall deface, injure, knock down or remove any official traffic sign or signal placed or erected as provided in this Title.

CHAPTER 3: RULES OF THE ROAD

7.03.01: DRIVER'S SIGNALS:

(A) SIGNALS REQUIRED:

(1) The driver of any vehicle upon a street or highway, before starting, stopping or turning from a direct line, shall first see that such movement can be made in safety and, if any pedestrian may be affected by such movement, shall give a clearly audible signal by sounding the horn.

(2) Whenever the operation of any other vehicle may be affected by such movement, the driver of any vehicle shall give a signal as required in subsection B of this Section, plainly visible to the driver of such vehicle, of the intention to make such a movement. The signal required in subsection B of this Section shall be given either by means of the hand and arm in the manner therein specified or by an approved mechanical or electrical signal device, which has been approved by the statutes of the State.

(B) METHOD OF GIVING SIGNALS:

(1) All signals required by hand and arm shall be given from the left side of a vehicle in the following manner, and such signals indicate as follows:

(a) Left Turn: Hand and arm extended horizontally beyond the side of the vehicle.

(b) Right Turn: Hand and arm extended upward beyond the side of the vehicle.

(c) Stop or Sudden Decrease of Speed: Hand and arm extended downward beyond the side of the vehicle.

(2) In a closed vehicle, the signals shall be given by a proper signaling device indicating the same signals as required by the hand and arm.

(3) Any signal of intention to turn right or left shall be given continuously during the last one hundred feet (100') traveled by the vehicle before turning.

(4) No person shall stop or suddenly decrease the speed of a vehicle without first giving the appropriate signal to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

7.03.02: RIGHT OF WAY:

(A) The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different street or highway.

(B) When two (2) vehicles enter an intersection from different streets or highways at the same time, the driver of the vehicle on the left shall yield the right of way to the driver of the vehicle on the right.

(C) Subsections A and B of this Section shall not apply to vehicles approaching each other from opposite directions, when the driver of one such vehicle is intending to or is making a left turn. The driver of a vehicle within an

intersection preparatory to a turn to the left shall yield the right of way to any vehicle which has approached or is approaching the intersection from the opposite direction and which is so close as to constitute a hazard at any time during the turning movement and shall continue to yield the right of way to such approaching vehicles until such time as the left turn can be made with reasonable safety.

7.03.03: TURNING MOVEMENTS:

(A) RIGHT AND LEFT TURNS: The driver of a vehicle intending to turn at an intersection shall do as follows:

(1) RIGHT TURNS: Approach for a right turn shall be made in the lane for traffic nearest to the right-hand side of the highway, and the right turn shall be made as closely as practicable to the right-hand curb or edge of the street or highway.

(2) LEFT TURNS:

(a) Approach for a left turn shall be made in the lanes for traffic to the right of and nearest to the center line of the street or highway. The left turn shall be made by passing to the right of such center line where it enters the intersection and, upon leaving the intersection, by passing to the right of the center line of the highway then entered.

(b) Approach for a left turn from a two-way street into a one-way street shall be made in the lane for traffic to the right of and nearest to the center line of the highway or street. The left turn shall be made by passing to the right of such center line where it enters the intersection and, upon leaving the intersection, by passing to the right of the center line of the highway then entered.

(c) The County Sheriff may, by placing markers, buttons or signs within intersections, require and direct that a course be traveled by vehicles turning left different from that specified in this subsection, and it is unlawful for the driver of a vehicle to make a left turn otherwise than as so directed and required by such markers, buttons or signs.

(B) U TURNS: The driver of a vehicle shall not turn such vehicle around so as to proceed in the opposite direction except at an intersection.

7.03.04: THROUGH STREETS; STOP INTERSECTIONS:

(A) The driver of any vehicle who has stopped, as required by law, at the entrance to a through street or highway shall yield the right of way to other vehicles which have entered the intersection from the through street or which are approaching so closely on the through street or highway as to constitute an immediate hazard. Such driver, having so yielded, may proceed and the drivers of all other vehicles approaching the intersection on the through street or highway shall yield the right of way to the vehicle so proceeding into or across the through street or highway.

(B) STOP STREETS: No driver of any vehicle shall fail to stop in obedience to

any sign erected in accordance with the provisions of subsection 7.02.01B of this Title except where directed to proceed by a Sheriff's officer or traffic-control signal. The stop required by this Section shall be made before entering the crosswalk on the near side of the intersection.

7.03.05: SPEED RESTRICTIONS:

(A) MAXIMUM SPEED LIMITS: No person shall drive a vehicle upon a street, highway or alley in excess of the speed indicated as follows:

(1) FIFTEEN MILES PER HOUR:

(a) When passing a school building or the grounds thereof during the school period or while children are going to or leaving or playing about said school.

(b) When turning a corner from one street or highway into another or on going through any street intersection within the City, except when traveling along a through street or boulevard.

(c) In public parks within the City.

(d) In all alleys within the City.

(e) When approaching or upon a curve or other part of a street or highway, in the event the driver's view is obstructed, within a distance of one hundred feet (100') along the street or highway in the direction in which such driver is proceeding.

(2) TWENTY-FIVE MILES PER HOUR: Upon any through street, boulevard or highway unless otherwise marked or signed.

(3) THIRTY-FIVE MILES PER HOUR: Upon any through street, boulevard or highway marked and signed, when the marking and signing indicate the allowance of such speed.

(B) MINIMUM SPEED LIMIT: No person shall drive a vehicle upon a street or highway within the City at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation.

(C) RESTRICTED SPEED ZONES:

(1) AUTHORITY: In order to protect life, limb and property and to facilitate the orderly movement of vehicular traffic upon the streets and highways of the City, the Fernley City Council may establish restricted speed zones.

(2) SIGNS POSTED: After the establishment of any restricted speed zone, the City shall cause to be placed upon the street and highway where such restricted speed zone has been established, appropriate signs or signals giving notice thereof.

(3) OBEDIENCE TO SIGNS AND SIGNALS: No driver of any vehicle shall disobey the instructions of any sign or signal placed in accordance with the provisions of this subsection unless otherwise directed by a deputy sheriff.

7.03.06: DRIVING ON RIGHT SIDE OF ROADWAY AND ON ROADWAYS LANED FOR TRAFFIC:

(A) Upon all streets, alleys or highways of sufficient width, other than one-way streets or alleys, the driver of a vehicle shall drive upon the right half of the street or highway except when the right half is out of repair and for such reason impassable or when overtaking and passing other vehicle subject to the limitations set forth in subsection 7.03.07B of this Chapter.

In driving upon the right half of a highway, the driver shall drive as closely as practicable to the right-hand edge or curb of the highway except when overtaking or passing another vehicle or when placing a vehicle in position to make a left turn.

(B) In driving upon a one-way street or alley, the driver shall drive as closely as practicable to the right-hand edge or curb of the street or alley except when overtaking or passing or traveling parallel with another vehicle or when placing a vehicle in position to make a left turn.

(C) No two (2) or more vehicles shall travel side by side on any street.

(D) No person driving, riding, propelling or in charge of any vehicle proceeding correctly along the right side of any street or highway shall cross over to the left side in the center or middle of a block, but shall proceed to the nearest street intersection and make a complete turn, keeping at all times in the right side of the street in the channel of traffic. Under the meaning and intent of this subsection, an alley shall not be construed to be a street.

(E) Whenever any street or highway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following regulations:

(1) A vehicle shall normally be driven in the lane nearest the right-hand edge or curb of the street or highway when such lane is available for travel except when overtaking another vehicle or in preparation for a left turn.

(2) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(3) The County Sheriff may designate right-hand lanes for slow-moving traffic and inside lanes for traffic moving at the speed indicated for the street under this Title. When such lanes are signposted or marked to give notice of such designations, a vehicle may be driven in any lane allocated to traffic movement in the direction such vehicle is proceeding. When traveling within such inside lanes, vehicles shall be driven at approximately the maximum speed authorized in such lanes, and speed shall not unnecessarily be decreased so as to block, hinder or retard traffic.

7.03.07: OVERTAKING AND PASSING VEHICLES:

(A) PASSING VEHICLES: Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one-half (1/2) of the main traveled portion of the roadway, whenever possible.

(B) OVERTAKING VEHICLES: Except as otherwise provided in subsection A of this Section, the following rules shall govern the overtaking and passing of vehicles:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street or highway until safely clear of such overtaken vehicle.

(2) The driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on suitable and audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(3) In the event vehicles on a street or highway are moving in two (2) or more substantially continuous lines, the provisions of subsections B1 and B2 hereof shall not be considered as prohibiting the vehicles in one such line overtaking or passing the vehicles in another such line either upon the right or the left nor shall the provisions of subsections B1 and B2 hereof be construed to prohibit a driver overtaking and passing upon the right of another vehicle which is making or about to make a left turn.

(4) The driver of a vehicle shall not drive to the left side of the center line of a street or highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without impeding the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

(C) PASSING OR OVERTAKING SCHOOL BUSES: The driver of any vehicle upon a street or highway, when meeting or overtaking from either direction any school bus equipped with signs and signals required by law which has stopped on the street or highway for the purpose of receiving or discharging children and is displaying a flashing red light signal visible from the front and rear, shall bring his vehicle to a stop immediately and shall not proceed past the school bus until the flashing red signal ceases operation. The driver of a vehicle need not stop upon meeting or passing a school bus when the school bus is stopped at an intersection or a place where traffic is controlled by a traffic officer or an official traffic signal.

7.03.08: RESTRICTIONS ON DRIVING:

(A) BACKING:

(1) No person shall ride, drive or propel or cause to be ridden, driven or propelled in, upon or along any street any vehicle in the backward direction if, by so doing, the free and uninterrupted passage of another

vehicle is impeded, and in no event shall a person drive a vehicle back across or into a street intersection.

(2) The driver of a vehicle parked diagonally and backing away from the curb into a traffic lane shall exercise unceasing vigilance and, in all events, the approaching car shall have the right of way.

(B) FOLLOWING TOO CLOSELY: The driver of a motor vehicle shall not follow another vehicle closer than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and the condition of the street or highway.

(C) EMERGING FROM ALLEY, DRIVEWAY, ETC.:

(1) The driver of a vehicle entering a public street or highway from a private road, private driveway or public alley shall yield the right of way to all vehicles approaching on such public street or highway.

(2) The operator of a vehicle merging from an alley or private driveway shall completely stop such vehicle immediately prior to driving onto the sidewalk area extending across such alley or private driveway.

(D) DRIVING THROUGH FUNERAL PROCESSIONS: No vehicle shall be driven or propelled through or across any funeral procession passing through the streets of the City. Any such vehicle, upon meeting any funeral procession, shall come to a full stop until the funeral procession has fully and completely passed the vehicle. This subsection shall not apply to vehicles of the fire or sheriff's departments or other authorized emergency vehicles.

7.03.09: ZONES OF QUIET:

(A) Every street or highway within two hundred feet (200') of a hospital building is declared to be a "zone of quiet".

(B) The County Sheriff is hereby authorized to declare any portion of a street, highway or alley within two hundred feet (200') of a sick chamber a "zone of quiet" for temporary purposes.

(C) No person shall sound gongs, whistles, horns, sirens or make unnecessary noise or itinerate music in any "zone of quiet".

7.03.10: OPERATION OF VEHICLES ON CITY OR PRIVATE PROPERTY:

(A) OPERATION OF VEHICLES ON CITY PROPERTY: It is unlawful for any person to operate a vehicle upon property belonging to the City without the authorization of the Fernley City Council.

(B) OPERATION OF VEHICLES ON PRIVATE PROPERTY: It is unlawful for any person to operate a vehicle upon any private property within the City without the express permission of the owner or occupier of such private property.

(C) EXCEPTIONS: Nothing contained in this Section shall prohibit the operation of a vehicle upon any area designated by the City or the owner or occupier of private property as a driveway, parking lot or other area to which access by vehicle is commonly permitted.

7.03.11: RECKLESS OR CARELESS DRIVING: No person shall drive a vehicle upon a street, highway or alley in violation of the provisions of this Section:

(A) RECKLESS DRIVING: Any person who drives any vehicle in the City in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(B) CARELESS DRIVING: It is unlawful for any person to drive or operate a vehicle of any kind or character in a careless manner in the City or in other than a careful and prudent manner or at a rate of speed greater than is reasonable and proper, having due regard for the traffic on and the surface and width of the street or highway or at such a rate of speed as to endanger the life, limb or property of any person; provided, that the speed of vehicle shall not exceed that provided for in this Chapter, and provided further, that the mere fact that a vehicle is operated within the speed restriction contained in this Title will not constitute prima facie evidence that the vehicle was operated in a lawful manner.

7.03.12: RACING; SQUEALING TIRES:

(A) RACING: No driver of any vehicle shall engage in a speed contest with another driver of any type motor-driven vehicle.

(B) SQUEALING TIRES: No person, in operating a motor vehicle within the City, shall so accelerate the same as to cause audible noise by the tire friction on the pavement or cause the tires of such vehicle to leave skid marks upon the pavement except when such acceleration is reasonably necessary to avoid a collision.

7.03.13: TRANSPORTING LIQUOR: No person shall carry in his vehicle an open container of alcoholic beverage on any street, alley or public parking lot in the City.

CHAPTER 4: PARKING REGULATIONS

7.04.01: APPLICATION OF PROVISIONS:

(A) The provisions of this Chapter prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times herein specified except when it is necessary to stop a vehicle to avoid conflict with the direction of a Sheriff's deputy or official traffic-control device.

(B) The provisions of this Chapter imposing a time limit on standing or parking shall not relieve any person from the duty to observe other and more restrictive provisions hereof or of any other ordinance of the City or County or statute of the State prohibiting or limiting the standing or parking of vehicles in specified places or at specified times.

7.04.02: NO PARKING PLACES: It is unlawful for the driver of a vehicle or for the owner of a vehicle to permit the driver thereof to stop, stand or park such vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a Sheriff's deputy or traffic-control signal, in any of the following places:

(A) Within an intersection.

(B) On a crosswalk.

(C) On a sidewalk.

(D) Within twenty feet (20') of the driveway entrance to any fire station.

(E) Within fifteen feet (15') of a fire hydrant.

(F) In front of a private driveway.

(G) Alongside or opposite any street or highway excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(H) On the roadway side of any vehicle stopped or parked at the edge or curb of any street or highway.

(I) In any line of traffic so as to obstruct such traffic.

(J) Between the curb or edge of roadway and property line.

(K) Within twenty feet (20') of any intersection of two (2) streets.

(L) Within three feet (3') of an intersection of a street and an alley.

7.04.03: METHOD OF PARKING:

(A) It is unlawful for any person to stand or park a vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic and with the right-hand wheels of the vehicle within eighteen inches (18") of the curb line or edge of the roadway, or where angle parking is so allowed, except as provided in this Section.

(B) It is lawful to back a vehicle to the curb only for such time as shall be necessary to load or unload merchandise or material and then only if ample space is left in the roadway for traffic to pass such a vehicle.

7.04.04: GENERAL PARKING RESTRICTIONS:

(A) FILLING VEHICLES WITH GASOLINE:

(1) It is unlawful:

(a) For the driver of any vehicle to stand or park the same upon any street or highway for the purpose of introducing gasoline or other product of petroleum into such vehicle.

(b) For any person to introduce gasoline or other product of petroleum into any vehicle while the same is standing or parked upon any street or highway.

(2) It is lawful to so introduce gasoline or other fuel into a vehicle from a container not exceeding five (5) gallons in capacity in the event the fuel supply in the vehicle has become exhausted.

(B) ALLEYS:

(1) It is unlawful for any person to park any vehicle in any public alley of the City except those vehicles that come within the provisions of Section 7.04.03 of this Chapter.

(2) It is unlawful for any person to park any vehicle in any alley within the boundaries of the business district for a longer period of time than shall be necessary to load or unload goods, wares or merchandise from or to any business establishment in such district at any time without first obtaining a permit from the County Sheriff. It is unlawful to park such a vehicle in such a manner as to obstruct the movements of other vehicles through such alley.

(C) ALL NIGHT PARKING: It is unlawful for the owner, driver or any person in charge of a motor vehicle to cause or permit the same to be or remain parked at the curb at any time between four o'clock (4:00) A.M. and six o'clock (6:00) A.M. of the same day signed and posted to that effect.

(D) PREFERENCE TO VEHICLE IN PROCESS OF PARKING: Whenever a space is vacant next to a curb, sufficient only for the parking of one vehicle, and any vehicle has stopped in the line of traffic for the purpose of backing into said space, such vehicle shall have the preferential right to such parking space over any following vehicle.

(E) LEAVING CHILD OR OTHERS IN PARKED CAR:

(1) It is unlawful for any person to leave standing or parked any vehicle when the doors thereof are locked and in which there is a person who cannot readily escape therefrom.

(2) It is unlawful for any person to leave a child of tender years unattended in any standing or parked vehicle.

(F) CREST OF HILL: When standing upon any perceptible grade, the front wheels of such vehicle shall be turned to the curb of the right-hand side of the highway or street.

(G) PARKING VEHICLE FOR SALE: No person shall stand or park a vehicle upon any street for the purpose of displaying such vehicle for sale by sign or otherwise.

(H) SET BRAKES; STOP MOTOR: No person having control or charge of a motor vehicle shall allow such vehicle to stand on any street or highway unattended without first effectively setting the brakes thereon and stopping the motor.

(I) OPENING DOORS INTO TRAFFIC: No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and no person shall leave a door open upon the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(J) LEAVING PARKED VEHICLE RUNNING: It is unlawful for any person to leave unattended upon any public street or highway or alley any motor vehicle while any part of its machinery is running or is in motion except for the purpose of operating refrigeration equipment of said vehicle or a trailer or semi-trailer connected therewith.

7.04.05: TIME LIMIT PARKING:

(A) ONE-HOUR PARKING: When signs, authorized by action of the City Council, are in place giving notice thereof, no person shall stop, stand or park any vehicle upon any street for a period of time longer than one hour.

The provisions of this subsection shall be subject to the application of special or more restrictive provisions contained in this Title and relating to the parking of vehicles.

(B) SEVENTY TWO HOUR PARKING: No person shall park a vehicle upon any street, with the exception of U. S. Highway 40, for more than seventy two (72) hours.

7.04.06: SPECIAL PARKING AREAS: Such areas as the City Council shall designate as "special parking areas", the City shall cause to be appropriately marked by green paint placed and maintained upon the entire curb surface within such area or areas.

It is unlawful for any person to stop, stand or park a vehicle in any area designated as a "special parking area" when such area is duly marked and signed between the hours of eight o'clock (8:00) A.M. and six o'clock (6:00) P.M. of any day except Sundays and legal holidays specified by the laws of the State.

7.04.07: LOADING AND UNLOADING:

(A) LOADING ZONES: When areas are designated by the City Council as "loading zones" and have been appropriately marked with yellow paint placed and maintained upon the entire curb surface along such area, it is unlawful for any person to stop or stand a vehicle except for the purpose of loading or unloading passengers or materials to the establishment for which the area was designated.

(B) LOADING AND UNLOADING PASSENGERS AND MATERIALS:

(1) The loading or unloading of passengers shall not consume more than three (3) minutes, and the loading or unloading of materials shall not consume more than twenty (20) minutes unless permission is obtained from the County Sheriff authorizing the standing of a vehicle for a longer period while unloading or loading materials.

(2) Where a proper sign is erected in front of a hotel, the loading or unloading of passengers and their luggage shall not consume more than twenty (20) minutes.

(3) The loading or unloading of materials shall apply only to commercial deliveries and to the delivery or pickup of express and parcel-post packages and United States mail.

(4) The loading or unloading of passengers shall include the loading or unloading of personal baggage.

7.04.08: PERMIT REQUIRED FOR CERTAIN VEHICLES:

(A) VENDING VEHICLES: No person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables or foodstuffs are sold, displayed, solicited or offered for sale or bartered or exchanged or any lunchwagon or eating car or vehicle on any portion of any street within the City without first obtaining a written permit to do so from the City Council which shall designate the specific location in which such vehicle, wagon or pushcart shall stand. The provisions of this subsection shall not apply to persons delivering such articles from a store or other fixed place of business or distribution upon order of or by agreement with a customer.

(B) VEHICLES FOR HIRE:

(1) No person shall park or stand any vehicle or wagon used or intended to be

used in the transportation of persons or property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a permit to do so from the City Council which shall designate the specific location where such vehicle may stand, and such location shall be signed indicating that it has been reserved for the use of the particular named person. When so signed, it is unlawful for any person other than the person designated to park or stand a vehicle in such space.

(2) It is unlawful for the owner or person in charge of any vehicle used in carrying passengers, freight, baggage or merchandise for hire to permit such vehicle to stand or remain in front of any place of business without first obtaining the written consent of the tenant of such place of business.

(C) CONDITIONS OF PERMIT; REVOCATION: Whenever any permit is granted under the provisions of this Section and a particular location has been designated, no person shall park or stand any vehicle, wagon or pushcart on any location other than as designated in such permit. In the event the holder of any such permit is convicted in any court of competent jurisdiction for violating any of the provisions of this Section, such permit shall be forthwith revoked by the City Council upon the filing of the record of such conviction with the City Council. No permit thereafter shall be issued to such person until six (6) months have elapsed from the date of such revocation.

7.04.09: SIGNS POSTED; OBEDIENCE: In such areas as are designated by the City as "no parking" or "no stopping" areas, the City shall cause such areas to be appropriately marked by red paint placed and maintained upon the entire curb surface within such area. It is unlawful for any person to stop, stand or park a vehicle in any area designated as a "no parking" or "no stopping" area. A bus may stop in such a red zone when the same has been authorized, marked or signed as a bus stop, and a taxi or other vehicle for the transportation of persons or property for hire may stop in certain red zones, as provided in this Title, and utility vehicles and authorized emergency vehicle of the County may stop in such a red zone if such vehicle is there in line of duty.

7.04.10: PARKING OF OVERSIZED VEHICLES, TRUCKS AND COMMERCIAL VEHICLES IN RESIDENTIAL AREAS-PROHIBITED ACTIVITIES

(A) Parking of Oversized Vehicles

(1) Within 100 feet of any residential area, it is unlawful for any person to stand, park or leave running any vehicle, trailer or vehicle and trailer having an overall length of more than twenty-four (24) feet at any time on any public street, highway or alley except in designated truck-parking areas or immediately in front of the property of the owner or driver while goods or passengers are being loaded or discharged.

(2) In the case of recreational vehicles, travel trailers and boats a forty-eight (48) hour period will be allowed for loading and unloading,

provided all vehicle and traffic regulations are complied with.

(B) Parking of Trucks or Commercial Vehicles in Residential Areas.

(1) It is unlawful for any person to stand, park or leave running any truck or commercial vehicle on any residential street except when engaged in the loading or unloading of merchandise or when such vehicle is being used in conjunction with the performance of service, repair, construction or similar use.

(2) It is unlawful for any person to cause or allow any commercial trailer or semi-trailer which is not attached to a tractor or other motor vehicle to be parked on a public street, highway, alley, parking lot or park within a residential area.

7.04.11: DEFINITIONS

(A) For purposes of this Ordinance, a residential area shall be defined as a residential neighborhood or area consisting of lot sizes of one acre or less.

(B) For purposes of this Chapter, “running” shall mean having the vehicle’s engine or motor or any part of its machinery engaged, in motion or in operation, including refrigeration equipment. (FTO 11)

CHAPTER 5: PEDESTRIANS

7.05.01: RIGHT OF WAY: The driver of a vehicle shall yield the right of way to a pedestrian crossing a roadway within any marked crosswalk or within any unmarked crosswalk at an intersection except as otherwise provided in this Chapter.

Whenever any vehicle has stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon that half of the roadway upon which the vehicle is traveling or when a pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

7.05.02: PEDESTRIAN'S USE OF ROADWAYS:

(A) USE RIGHT HALF OF CROSSWALK: Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(B) CROSSING AT OTHER THAN CROSSWALKS: Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

The provisions of this subsection shall not relieve the driver of a vehicle from the duty to exercise due care for the safety of any pedestrian upon a roadway.
No pedestrian shall cross a roadway at any place other than a route at right angles to the curb or by the shortest route to the opposite curb, except in a marked crosswalk.

(C) CROSSING AT CONTROLLED INTERSECTIONS: At intersections where traffic is controlled by a traffic-control signal device or by Sheriff's officers, pedestrians shall not cross the roadway against a red or stop signal.

(D) SUDDENLY LEAVING CURB: No pedestrian shall suddenly leave a curb or other place and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(E) SOLICITING RIDES OR BUSINESS:

(1) No pedestrian shall loiter in a crosswalk for the purpose of soliciting a ride, employment or business.

2) No person shall stand in a roadway for the purpose of soliciting a ride from

the driver of any vehicle.

7.05.03: PLAYING GAMES IN STREETS: No person shall engage in any sport, amusement or occupation likely to impede the passage of vehicles upon any street.

CHAPTER 6: VEHICLE EQUIPMENT AND CONDITION

7.06.01: STATE REGISTRATION REQUIRED: It is unlawful for any person to operate or for the owner thereof knowingly to permit the operation of any motor vehicle, trailer or semi-trailer upon any street, highway or alley unless the same has been registered and has attached thereto and conspicuously displayed thereon the number of plate currently assigned thereto by the Motor Vehicle Department of the State, unless such vehicle, trailer or semi-trailer is exempted from such registration by the laws of the State.

7.06.02: BRAKES: Every motor vehicle, other than a motorcycle, when operated within the City, shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including means which shall be effective to apply the brakes to at least two (2) wheels.

No person shall operate any vehicle within the City which is incapable at all times and under all conditions of loading of being stopped on a dry, smooth, level street free from loose material upon application of the service brake or of being decelerated at such a sustained rate as is specified by the statutes of the State.

7.06.03: HORNS AND WARNING DEVICES:

(A) No person shall operate upon the streets or alleys of the City any vehicle which is not equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet (200').

Every person operating a vehicle shall, when reasonably necessary to insure safe operation, give audible warning with his horn, and it is unlawful to otherwise use such horn.

No horn shall emit an unreasonable loud or harsh sound or a whistle.

(B) No person shall use upon a vehicle any siren, whistle, bell or red light except on emergency equipment of the County or other governmental agency or other emergency equipment authorized by the State.

Any authorized emergency vehicle may be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet (500'). It is unlawful to use such siren except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which event, the driver of such vehicle shall sound such siren or electric warning device when necessary to warn pedestrians and other drivers of the approach thereof.

7.06.04: LIGHTS: No person shall operate upon any street or highway any

vehicle that is not equipped with the lighting equipment required by the laws of the State. It is unlawful:

(A) For any person driving or in charge of a vehicle to fail to display lights in compliance with the laws of the State.

(B) For any person to operate upon any street or highway any vehicle that is equipped with lighting equipment that is not in conformity with the requirements of the laws of the State.

7.06.05: MUFFLERS AND EXHAUST SYSTEMS:

(A) GENERAL REQUIREMENTS: No person shall ride, drive or propel, or cause or permit to be ridden, driven or propelled, any motor vehicle in, upon or along any street or highway nor operate, or cause or permit to be operated, the motor in any such vehicle in any street or other public place if such motor vehicle or the motor in such vehicle is not provided with a good and sufficient muffler properly attached thereto or if the exhaust from the motor in such vehicle is ejected otherwise than through such muffler or if the exhaust is ejected toward the surface of the street or ground.

(B) MODIFIED EXHAUST SYSTEMS: No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle. The original muffler shall comply with all of the requirements of the original equipment.

(C) EXHAUST PIPES ON DIESEL-POWERED VEHICLES: No person shall operate any vehicle powered by a diesel engine within the City unless the extreme end of the exhaust pipe therefrom terminates at a point above the top of the cab or body of such vehicle, whichever is higher.

This subsection shall not apply to diesel-powered automobiles, new diesel pickups or vehicles converted from gasoline to diesel-powered engines.

7.06.06: TIRES: No person shall ride, drive or propel, or cause or permit to be ridden, driven or propelled, along or upon any pavement or top-dressed street any vehicle or traction engine, any tire of which is not a pneumatic tire or that has a sharp or uneven surface or to any tire or wheel to which is attached cleats or spikes or uneven surfaces or any device that will cause damage to the paving, macadamizing or top-dressing of such street.

7.06.07: OBSTRUCTING DRIVER; RIDING ON UNLAWFUL PART OF VEHICLE:

(A) No driver of any vehicle shall drive the same when such vehicle is so loaded or when there are in the front seat of such vehicle such number of persons as to obstruct the view of the driver to the front or sides or interfere with the driver's control over the driving mechanism of the vehicle or when any person

is riding on the outside of any vehicle.

(B) No person shall ride and no person driving a motor vehicle shall knowingly permit any person to ride on any vehicle upon any portion thereof not designed or intended for the use of passengers or in any position as to interfere with the driver's or operator's view. This provision does not apply to an employee engaged in the necessary discharge of his duty or to persons riding completely within or upon vehicle bodies in space intended for any load on the vehicle.

7.06.08: VEHICLE WEIGHT AND LOAD:

(A) WEIGHT RESTRICTIONS: No traction engine, trailer or motor or other vehicle shall be operated upon any highway, street or alley within the City nor shall any object be moved over or upon any such street, alley or highway upon wheels, rollers or otherwise in excess of a total weight of eighteen thousand (18,000) pounds per axle, including vehicle, object or contrivance and load, without first obtaining from the City Engineer a permit so to do.

This subsection shall not apply to the following streets:
Interstate 80
U.S. Highway 95A
U.S. Highway 50

(B) PROJECTING LOADS: Whenever the load of any vehicle extends more than four feet (4') beyond the rear of the bed or body thereof, there shall be displayed at the end of such load, in such position as to be clearly visible at all times from the rear of such load, a red flag no less than twelve inches (12") both in length and width. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed at the end of any such load a yellow or red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle.

7.06.09: PROHIBITED ACTS AND CONDITIONS:

(A) DRIVING ON NEWLY LAID PAVEMENT: No person shall ride or drive any vehicle or horse over or across any pavement newly laid or repaired, across or around which there has been placed a barrier or at or near which there is a person or a sign stating that the street or highway is closed.

The provisions of this subsection shall not apply to the persons actually engaged in the paving or repair of such street or highway.

(B) DEPOSITING INJURIOUS MATERIALS IN ROADWAY: No person shall throw, deposit or place in or upon any public street any nails, tacks, crockery, scrap iron, tin, wire, bottles, glass, thorns, thorny clippings, thorny branches of bushes or any other article or thing likely to puncture or injure the tire of any

vehicle or, by such acts, to litter the street or highway with rubbish.

(C) LEAKING LOADS: It is unlawful for any person to drive or move any vehicle on any street or highway unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.

(D) TRANSFERRING LOADS: It is unlawful to transfer merchandise from one vehicle to another upon any street except in the event that one such vehicle has been damaged or become disabled and cannot be removed from the street with safety until the same has been unloaded.

(E) OIL OR GASOLINE DRIPPING ON STREET: It is unlawful for any person owning or operating any vehicle, machinery or apparatus using gasoline or other product of petroleum to drain or permit to drip or run from the crankcase or gear case or from any other part of the vehicle or machinery any gasoline, oil or other petroleum product, upon any street or highway.

(F) REPAIRING VEHICLE ON STREET: No person shall construct or cause to be repaired any vehicle or any part of any vehicle upon any street or highway or alley, except for minor repairs.

CHAPTER 7: BICYCLES

7.07.01: OPERATION OF BICYCLES:

(A) RIDING ON BICYCLES: No person shall carry upon any bicycle upon any street, highway or alley a number of persons greater than that for which such bicycle is designed and equipped.

(B) RIDING ON THE RIGHT: Every person operating a bicycle upon a street, highway or alley shall ride as near to the right-hand side of the roadway as practicable and shall exercise due care when passing a standing vehicle or a vehicle proceeding in the same direction.

(C) RIDING ON SIDEWALKS PROHIBITED: No person shall operate a bicycle upon any sidewalk within the City.

(D) RIDING IN A GROUP: No persons shall operate bicycles upon any street, highway or alley in a group of more than two (2) bicycles abreast of one another.

(E) CLINGING TO VEHICLES: No person operating a bicycle upon any street, highway or alley shall attach such bicycle or himself to any moving vehicle

(F) PARKING: No person shall park or stand a bicycle upon any street or sidewalk, other than in a bicycle rack or against a building or at the curb in such a manner as to afford the least obstruction to pedestrian traffic.

7.07.02: LIGHTS AND REFLECTORS: No person shall operate any bicycle upon a street or highway after sundown and before sunrise unless such bicycle is equipped with a lamp emitting a white light visible under normal atmospheric conditions from a distance of three hundred feet (300') in front of such bicycle and with a red reflector on the rear.

CHAPTER 8: MOTORCYCLES

7.08.01: DRIVER'S LICENSE REQUIRED:

(A) Except for a nonresident who is at least sixteen (16) years of age and is authorized by the state of his residency to drive a motorcycle, a person shall not drive a motorcycle upon a street or highway within the City unless such person holds a valid motorcycle driver's license issued pursuant to NRS chapter 486 or a driver's license issued pursuant to NRS chapter 483 endorsed to authorize the holder to drive a motorcycle.

(B) No person shall authorize or knowingly permit a motorcycle owned by him or under his control to be driven upon any highway by any person who is not authorized by NRS chapter 486 to drive a motorcycle.

7.08.02: OPERATION OF MOTORCYCLES:

(A) RIGHTS AND DUTIES OF DRIVER: A person driving a motorcycle upon a highway is entitled to all the rights and subject to all the duties applicable to the drivers of motor vehicles as provided by law, except those provisions which by their nature can have no application.

(B) RIDING ON MOTORCYCLES: A person driving a motorcycle shall ride only upon the permanent and regular set attached thereto.

A person shall not drive a motorcycle with the seat for the driver so positioned that the driver, when sitting astride the seat with the motorcycle in a stopped and upright position, cannot reach the ground with both feet simultaneously.

(C) Carrying Passengers: A motorcycle shall not be driven upon a highway while carrying more than one person unless such motorcycle is designed by the manufacturer to carry more than one person. A passenger shall ride:

(1) Behind the driver and astride the permanent or regular seat which was designed for two (2) persons;
(2) Astride another seat firmly attached at the rear of the driver; or
(3) In a sidecar attached.

Every such motorcycle designed for transporting a passenger shall be equipped with footrests adjusted to fit such passenger.

(D) USE OF TRAFFIC LANES: Every motorcycle, when being driven on the highway, is entitled to full use of the traffic lane it is occupying, and a person shall not drive another motor vehicle in a manner which would deprive any such motorcycle of such use.

(E) DRIVING BETWEEN VEHICLES; RIDING ABREAST:

(1) A person, except a Sheriff's officer in the performance of his duty, shall not drive a motorcycle between moving or stationary vehicles occupying

adjacent traffic lanes.

(2) Except as provided in subsection E3 hereof, a person shall not drive a motorcycle abreast of or overtake or pas another vehicle within the same traffic lane.

(3) Motorcycles may, with the consent of the drivers, be operated no more than two (2) abreast in a single traffic lane.

7.08.03: EQUIPMENT:

(A) HANDLEBARS:

(1) HEIGHT OF HANDLEBARS: A person shall not drive a motorcycle equipped with handlebars which are more than fifteen inches (15") in height above the uppermost portion of the driver's seat when such seat is depressed by the weight of the driver.

(2) USE OF HANDLEBARS: The driver of a motorcycle shall drive with one hand on each handlebar at all times, except when such driver is making an arm signal for a turn.

(B) WHEEL FENDERS: A person shall not drive a motorcycle unless the wheels are protected by fenders to prevent the throwing of rocks, dirt, water or other substances to the rear.

(C) LIGHTS AND SIGNAL DEVICES:

(1) General Requirements:

(a) Every motorcycle upon a highway or street of this County at any time from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise and at any other time when, because of insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway or street are not clearly discernible at a distance of one thousand feet (1,000') ahead, shall display lighted lamps and illuminating devices as respectively required in this Chapter.

(b) Every motorcycle upon a highway shall be equipped with stop lights and turn signals to be lighted in the manner prescribed for the use of such devices.

(2) HEADLAMPS: Every motorcycle shall be equipped with at least one and not more than two (2) headlamps. Every such headlamp shall be located at a height of not more than fifty four inches (54") nor less than twenty four inches (24") from the ground, as measured from the center of the lamp to the level ground upon which such motorcycle stands without a load.

(3) TAIL LAMPS: Every motorcycle shall be equipped with at least one tail lamp mounted on the rear which, when lighted as required by this Chapter, shall emit a red light plainly visible from a distance of five hundred feet (500') to the rear. Such lamp shall be wired to be lighted whenever the headlamp is lighted.

(4) REFLECTORS: Every motorcycle shall carry on the rear at least one reflector which shall be mounted at a height not less than twenty inches (20") nor more than sixty inches (60") from the ground as measured from

the center of the reflector to the level ground upon which such motorcycle stands without a load. Each such reflector shall be of a size and character and so mounted as to be visible at night from all distances within three hundred feet (300') when directly in front of lawful upper beams of headlamps.

(5) TURN SIGNALS: Every motorcycle manufactured after January 1, 1972, shall be equipped with electric turn signal lamps. Such lamps shall be located on the front and rear and shall indicate an intention to turn by flashing lights in the direction toward which the turn is to be made.

The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit white or amber light or any shade of light between white and amber.

The lamps showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit red or amber light or any shade of light between red and amber.

(D) BRAKES: Every motorcycle shall be equipped with brakes adequate to control the stopping and holding as prescribed in NRS 484.593 and 484.595.

(E) MIRRORS: Every motorcycle shall be equipped with two (2) mirrors, each containing a reflection surface not less than three inches (3") in diameter, with one mirror mounted on each handlebar in positions enabling the driver to view clearly the highway for a distance of two hundred feet (200') to the rear.

(F) MUFFLER: Every motorcycle driven on a highway shall be equipped with an effective and operating muffler.

7.08.04: SAFETY GEAR:

(A) SAFETY GEAR REQUIRED: Except as provided in this subsection, when any motorcycle is being driven on a street, highway or alley within the City, the driver and passenger shall wear protective headgear securely fastened on the head and protective glasses, goggles or face shields, which headgear, glasses, goggles and face shields shall meet standards adopted by the Department of Motor Vehicles of the State, in accordance with the provisions of NRS 486.231 (1).

When a motorcycle is equipped with a transparent windscreen meeting standards adopted by the Department of Motor Vehicles of the State adopted in accordance with the provisions of NRS 486.231 (1), the driver and passenger shall not be required to wear glasses, goggles or face shields.

When a motorcycle is being driven in a parade authorized by the City, the driver and passenger shall not be required to wear the protective devices provided for in this subsection.

(B) SALE OF SAFETY GEAR: A person shall not sell, offer for sale or distribute any protective headgear, glasses, goggles or face shields for use by any drivers or passengers of motorcycles or transparent windscreens for motorcycles unless such equipment is of a type and specification meeting the standards therefor adopted by the Department of Motor Vehicles of the State.

The provisions of this subsection shall not prohibit the sale of protective headgear, glasses, goggles or face shields which comply with the rules and regulations adopted by the United States Department of Transportation.

7.08.05: DELIVERY OF DRIVER'S LICENSE ON REQUEST: Every person driving a motorcycle shall manually deliver his license to drive a motorcycle to any Sheriff's officer or court upon request therefor by such officer or court.

7.08.06: VIOLATION AND PENALTY: Any person violating any provisions of this Chapter is guilty of a misdemeanor and shall be punished as provided in Title 1, Chapter 4 of this Code.

CHAPTER 9: TAXICABS

7.09.01: RESTRICTIONS REGARDING CONVICTED PERSONS:
No convicted person shall drive or operate a taxicab within the City; and no taxicab owned by or registered to any convicted person shall be driven or operated within the City.

"Convicted person", as used in this Section, is defined in the same manner as the same term is defined in NRS 207.080.

7.09.02: FINGERPRINTS REQUIRED: Every person applying for a taxicab license or permit to drive shall be fingerprinted.

CHAPTER 10: ENFORCEMENT AND PENALTIES

7.10.01: ENFORCEMENT OF PROVISIONS: The officers of the Sheriff's Department shall enforce the provisions of this Title.

7.10.02: USE OF RADAR: It is lawful for the Sheriff's Department to use radar equipment for the detection of speed violators and for the control and regulation of traffic within the City.

7.10.03: CITATIONS: The County Sheriff shall provide suitable, serially numbered forms for notifying violators of this Title to appear and answer to charges of said violations.

7.10.04: FAILURE TO APPEAR: No person shall fail to appear before the municipal court after having represented in writing to a Sheriff's deputy of the County that he would so appear to answer to a charge of having violated any provision of this Title.

7.10.05: ARRESTS: Whenever any person is arrested for any violation of this Title, the arrested person shall be taken without unnecessary delay before a justice of the peace within the County who is nearest or most accessible with reference to the place where the arrest is made in any of the following cases:

(A) When the person arrested fails to exhibit his driver's license or other satisfactory evidence of his identity.

(B) When the person arrested refuses to give his written promise to appear in court.

7.10.06: ILLEGALLY PARKED VEHICLES:

(A) NOTICE OF VIOLATION: Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this Title or other provisions of this Code, the deputy sheriff finding such vehicle shall take its registration number and may take other information displayed on the vehicle which may identity its user and shall conspicuously affix to such vehicle a notice in writing on a form provided by the County Sheriff for the driver to answer to the charge against him at a place and during the hours specified in the notice.

(B) FAILURE TO COMPLY WITH NOTICE: If a violator of the restrictions on stopping, standing or parking vehicles imposed by this Title does not appear in response to a notice affixed to such vehicle at the place and during the hours specified in the notice within ten (10) days from the date of the affixing of such notice, he shall be guilty of violating the provisions of this Title

regardless of the disposition of the charge for which the notice was affixed.

(C) VIOLATIONS DECLARED A NUISANCE; IMPOUNDMENT AND REDEMPTION OF VEHICLES: Any vehicle of any kind or description whatever found parked at a place or in a manner prohibited or declared to be unlawful for this Title or in violation of the restrictions on stopping, standing or parking imposed by this Title or other sections of this Code is declared to constitute a nuisance and may be impounded by any deputy sheriff.

The impounded vehicle shall only be surrendered to the duly identified owner or to the duly authorized agent of such owner upon the payment to the garage or repair shop of the towing and storage charges, which sum is declared to be the pound fee covering the same.

7.10.07: PRIMA FACIE PROOF: In any proceeding for the violation of any of the provisions of this Title or of any of the restrictions imposed by this Title, the registration plate or number thereon displayed on the vehicle involved shall be received as prima facie evidence that the registered owner of such vehicle was then operating the same.

If, at any hearing or proceeding, the registered owner of such vehicle testifies under oath that he was not operating the vehicle at the time of the alleged violation of this Title and subjects himself to an examination as to who, at the time, was operating such vehicle and reveals the name of the person or shows that such vehicle was stolen, then the prima facie evidence arising from the registration plate or number thereon shall be overcome and the burden of proof shifted.

7.10.08: REPORTS ON VIOLATIONS: The County Sheriff shall cause to be kept a full report of every case in which a person is charged with violations of any provisions of this Title, and in the event such person is convicted or that his bail is forfeited, an abstract thereof shall be sent forthwith by the justice of the peace to the Motor Vehicle Department of the State.

TITLE 8 PARKS AND RECREATION

CHAPTER 1: CONDUCT IN THE PUBLIC PARKS and ENFORCEMENT THEREOF

8.01.01 PARK OPERATING HOURS: All City Parks shall be open to the public daily at 6:00 A.M. and shall close to the public at 10:00 P.M. daily; no unauthorized person shall be allowed in the parks between 10:00 P.M and 6:00 A.M., with the exception of authorized events, authorized personnel, or persons in authorized designated locations; if an authorized event is completed after 10:00 P.M., then park closing time is ½ hour after event is completed; if the authorized event or authorized designated location (such as travelers with horses) involves overnight camping, then the legitimate participants of the event and the area of the overnight camping are exempt from this curfew.

8.01.02 PROHIBITED CONDUCT: No person in a public park shall:

(A) Operate a motorized vehicle (other than an official emergency vehicle) at a rate of speed exceeding fifteen (15) miles per hour.

(B) Operate a motorized vehicle (other than an official emergency, park maintenance vehicle, or City vehicle) in any area other than designated park roadways or parking areas.

(C) Block or obstruct any fire or emergency lane or designated area.

(D) Ride or allow any horse on any grass, turf, ball field or picnic area.

(E) Camp or stay overnight except with prior approval by the City.

(F) Possess, have or use any glass container.

(G) Consume or possess alcoholic beverages, with the exception of uses at approved reserved activities such as picnics and special events; or sell alcohol without a City liquor license.

(H) Dump, deposit, leave or allow to be dumped, deposited or left, any rubbish, waste, garbage, refuse or other trash except in a designated receptacle; this provision applies individually and jointly to the sponsor and participants of any park event.

(I) Dump, deposit or leave any rubbish, waste, garbage, refuse or other trash not generated from a legal park activity but brought into the park, such as household trash, construction trash or other debris.

(J) Deposit or leave any dog feces or droppings except in a designated trash receptacle.

(K) Misuse, damage or destroy any park equipment or facility, or use such for any purpose other than its designated or normal purpose without prior written approval by the City.

(L) Light, build, make or allow any fires other than in designated fire pits or barbecues, or other designated facilities.

(M) Be in violation of the Park Operating Hours provision in section 1, above.

8.01.03 VIOLATION – PENALTY: Any person convicted of violating this ordinance shall be guilty of a misdemeanor and shall be fined, jailed or punished as allowable by state law regarding misdemeanors. (ORD 2004-009)

CHAPTER 2: OUTDOOR FESTIVALS

8.02.01: DEFINITION: "Outdoor festival" means any music festival, dance festival, "rock" festival or similar musical activity at which music is provided by paid or amateur performers or by prerecorded means, which is held at any place other than in a permanent building or permanent installation which has been constructed for the purpose of conducting such activities or similar activities and to which members of the public are invited or admitted for a charge or free of cost.

8.02.02: LICENSE REQUIRED: No person shall operate, maintain, conduct, advertise or sell or furnish tickets for an outdoor festival in the City unless he shall first obtain a license from the City to operate or conduct such festival.

8.02.03: APPLICATION FOR LICENSE: Application for a license to conduct an outdoor festival shall be made in writing to the City Council at least sixty (60) days prior to the time indicated for the commencement of the planned activity and shall be accompanied by a nonrefundable application fee of one hundred dollars ($100.00) and shall contain the following information:

(A) The name, age, residence and mailing address of the person making the application. If the application is made by a partnership, the names and addresses of the partners must appear. Where the applicant is a corporation, the application must be signed by the president, vice president and secretary thereof and must contain the addresses of the corporate officers, and a certified copy of the articles of incorporation shall be submitted with the application.

(B) A statement of the kind, character or type of festival which the applicant proposes to conduct, operate or carry on.

(C) The address or legal description of the place where the proposed festival is to be conducted, operated or carried on. Additionally, the applicant must submit proof of ownership of the place where the festival is to be conducted or a statement signed by the owner of the premises indicating his consent that the site be used for the proposed festival.

(D) The date or dates and the hours during which the festival is to be conducted.

(E) An estimate of the number of customers, spectators, participants and other persons expected to attend the festival for each day it is conducted.

The applicant shall provide names and addresses of anyone contributing, investing or having a financial interest greater than five hundred dollars ($500.00) in producing the festival.

At the time of making application the applicant shall arrange to be fingerprinted by office of the Sheriff.

8.02.04: FESTIVAL PLANS: A detailed explanation of the applicant's plans to provide security and fire protection, water supply and facilities, food supply and facilities, sanitation facilities, medical facilities and services, vehicle parking space, vehicle access and on-site traffic control shall be required and, if it is proposed or expected that spectators or participants will remain at night or overnight, the arrangements for illuminating the premises and for camping or similar facilities. The applicant's plans shall include what provisions shall be made for numbers of spectators in excess of the estimate, provisions for cleanup of the premises and removal of rubbish after the event has concluded.

A plot plan showing arrangement of the facilities, including those for parking, egress and ingress, shall be submitted with the application.

8.02.05: PROCESSING OF LICENSE APPLICATION:

(A) NOTICE OF REVIEW; INVESTIGATION OF APPLICANT: Upon receipt of a complete application and the application fee, the Clerk of the City Council shall set the application for public hearing at a regular meeting of the City Council, not less than fifteen (15) days nor more than thirty (30) days thereafter, and shall give not less than ten (10) days written notice thereof to the applicant. He shall promptly give notice of hearing and copies of the application to the Sheriff, the County Health Officer and the City Engineer who shall investigate the application and report in writing to the City Council, not later than the hearing, with appropriate recommendations related to their official functions as to granting a license and conditions thereof.

(B) REVIEW BY CITY COUNCIL: Based upon the testimony of the witnesses and evidence presented at the hearing, including the report of the department heads, the Board of Commissioners shall grant the license, deny the license or set conditions which must be met or security given that they will be met before a license may be granted. If conditions are imposed by the Council, the applicant shall furnish or cause to be furnished to the Clerk proof that all conditions have been met before the license may be issued by the Clerk.

8.02.06: DENIAL OF LICENSE: After holding the required public hearing, the City Council may deny issuance of license if it finds any of the following:

(A) That the applicant fails to meet the conditions imposed pursuant to this Chapter.

(B) That the proposed festival will be conducted in a manner and/or location not meeting the health, zoning, fire or building and safety standards established by the ordinances of the City or the laws of the State.

(C) That the applicant has knowingly made a false, misleading or fraudulent statement of material fact in the application for license or in any other document required pursuant to this Chapter.

(D) That the applicant, his employee, agent or any person connected or associated with the applicant as partner, director, officer, stockholder, associate or manager has previously conducted the type of festival being applied for which resulted in the creation of a public or private nuisance.

(E) That the applicant, his employee, agent or any person associated with applicant as partner, director, officer, stockholder, associate or manager has been convicted in a court of competent jurisdiction by final judgment of:
(1) An offense involving the presentation, exhibition or performance of an obscene production, motion picture or place or of selling obscene matter, or
(2) An offense involving lewd conduct, or
(3) An offense involving the use of force and violence upon the person of another, or
(4) An offense involving misconduct with children, or
(5) A felony offense.

Where the application is denied, the City Council shall mail to the applicant written notice of denial within fourteen (14) days of the action, which notice shall include a statement of the reasons the application was denied.

8.02.07: ISSUANCE OF LICENSE; FEE: When the City Clerk certifies that conditions have been met, the Sheriff shall, upon payment of one hundred dollars ($100.00) per day of operation, issue a license specifying the name and address of the licensee, the kind of festival licensed and the number of days operation is authorized. The City Council may waive the requirement of payment of the one hundred dollars ($100.00) per day of operation.

8.02.08: LICENSE TO BE POSTED; NONTRANSFERABILITY: The licensee shall keep the license posted in a conspicuous place upon the premises at which the festival is conducted. No license issued pursuant to this Chapter shall be transferable or removed to another location.

8.02.09: CONDITIONS OF LICENSE: At the hearing required under subsection 8.02.05A of this Chapter, the City Council may establish conditions which must be met prior to the issuance of any license hereunder; except, that the Council may take a matter under submission before determining which conditions shall be imposed. Where the Council takes a matter under submission, written notice of any condition imposed as prerequisite to the issuance of a license must be mailed to the applicant within fifteen (15) days of the original hearing.

The conditions which may be imposed by the City Council pursuant to the City's general police power for the protection of health, safety and property of local residents and persons attending festivals in the City are as follows:
(A) FINANCIAL STATEMENTS: Each licensee shall be required to provide a financial statement to give assurance of the ability of the promoters and/or applicants to meet the conditions of the permit.

(B) BONDS: Any licensee may be called upon to post an indemnity bond and/or a performance bond in favor of the City in connection with the operation of a festival. Bonds required by this Chapter must be approved by the City Council prior to the issuance of a license. An applicant may be required to submit a surety bond written by a corporate bonding company authorized to do business in the State by the Department of Commerce, Insurance Division, in a penal amount determined by the City Council. The bond shall indemnify the City, its agents, officers, servants and employees and the City Council against any and all loss, injury and damage of any nature whatsoever arising out of or in any way connected with the festival and shall indemnify against loss, injury and damage to both person and property. Additionally, the City may demand that applicant provide a corporate surety bond written by a corporate bonding company authorized to do business in the State, indemnifying the City and the owners of property adjoining the festival site for any costs necessitated for cleaning up and/or removing debris, trash or other waste from, in and around the premises. The bond shall be in an amount determined by the City Council.

(C) POLICE PROTECTION: Every licensee shall employ, at his own expense, police protection. The number and type of officers shall be determined and specified by the County Sheriff to provide for the preservation of order and protection of property in and around the place of the festival. Funds to employ this specified number of law enforcement officers at the current hourly salary rate for Sheriff's deputies shall be deposited with the County at least ten (10) days prior to the specified date the activity is to occur. A minimum of one law enforcement officer for every five hundred (500) persons expected to be in attendance shall be required. Where the Sheriff specifies the employment of off-duty peace officers to meet the requirements of this Chapter, the peace officers shall be under the complete direction and control of the Sheriff. The Sheriff must be satisfied that the requisite number of peace officers will be provided at all times of operations, plus any specified time prior to and following the event, before a license is issued.

(D) FIRE PROTECTION: Every licensee shall provide, at his own expense, adequate fire protection, as determined by the fire protection agency or agencies having jurisdiction, where the event is to be conducted. If the event is located in a hazardous fire area, as defined in the Lyon County Fire Code, a suitable number of fire guards shall be employed by the licensee who shall be approved by the chief of the responsible fire protection agency or agencies. Flammable vegetation and other fire hazards shall be removed in a manner and in such quantity as determined by the fire chief(s). First aid fire extinguishment equipment shall be provided as directed by the fire chief(s).

(E) WATER AND SEWER FACILITIES:

(1) WATER FACILITIES:

(a) Every licensee shall provide, from a water surveyor operating under a permit as required under section 533.080 NRS of the State Health and Safety Code, an ample supply of potable water for drinking and sanitation purposes on the

premises of the festival. Location of water facilities on the premises must be approved by the Health Officer prior to issuance of a license.

(b) The minimum supply of water to outdoor festivals shall be fifteen (15) gallons of water for each person in attendance per day. All water shall meet U.S. Public Health Service standards.

(c) Public and private flush-type water closets, lavatories and drinking facilities shall be required as determined by the County Health Officer.

(2) SEWER FACILITIES: Sewage and drainage systems relating to such facilities shall meet the requirements of the Health and Safety Code, and be subject to the prior approval of the County Health Officer and City Engineer.

(F) SANITATION FACILITIES: Every licensee shall provide at least one enclosed flush-type water closet facility marked "Men" and one such facility marked "Women" on the premises of a festival on the basis of one flush-type water closet for each forty (40) males and one for each forty (40) females expected to be in attendance. Urinals may be substituted for the required flush-type water closets for men on the ratio of one urinal and one flush-type water closet per sixty (60) males.

(G) MEDICAL FACILITIES:

(1) Where the proposed festival is located close to adequate existing facilities, the applicant shall provide, as required by the Health Officer, emergency treatment facilities on the premises of the festival.

(2) The location of such facilities, number of doctors, psychiatrists, psychologist, nurses and other aides needed to staff the facilities and the quantity of medical supplies, drugs, ambulances and other equipment that must be on the site shall be approved by the County Health Officer prior to the issuance of any license under this Chapter.

(3) The County Health Officer shall calculate the need for medical services, based on the number of persons expected to attend a festival, their expected age group, the duration of events planned and the possibility of exposure to inclement weather and outdoor elements. Traffic lanes and other adequate space shall be designated and kept open for access and travel for ambulance, helicopter and other emergency vehicles to transport patients or staff to appropriate on- and off-site treatment facilities.

(H) PARKING AND ACCESS:

(1) PARKING AREAS: Every licensee shall provide adequate parking space for persons attending the festival by motor vehicle. Persons desiring to operate or conduct a festival may be called upon to provide a separate parking space for every two (2) persons expected to attend the festival by motor vehicle. Such individual parking spaces shall be clearly marked and shall not be less than twelve feet (12') wide and twenty feet (20') long. The City Council must approve an applicant's parking plan before a license shall be issued.

(2) ACCESS AND PARKING CONTROL: Every licensee shall provide adequate ingress and egress to festival premises and parking area therefor. Necessary roads, driveways and alleyways shall exist to insure camping facilities and

overnight areas that meet the requirements of the provisions of section 407.065 NRS for mobile home parks, special occupancy trailer parks and campgrounds, including travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping area and tent camps.

Such areas and facilities shall be approved by the County Health Officer and City Engineer prior to the issuance of any license.

(I) FOOD CONCESSIONS:

(1) Where the proposed festival is to be held a substantial distance from public eating places, food handling places or like establishments, applicant shall be required to demonstrate that food will be available at the premises for each day of operation to adequately feed the number of persons expected to be in attendance.

(2) Concessionaires must be licensed and operate under a valid Health Department permit pursuant to local ordinances and State laws.

(3) Every licensee shall provide at least one flush-type water closet and lavatory for each sex in a closed facility for employees of each food concession or operation within the enclosure area of such food operation unless otherwise approved by the Health Officer.
Under no circumstances shall the Health Officer allow such flush-type water closets and lavatories to be located more than fifty feet (50') from the food concession or operation. All lavatories required in conjunction with food concessions and food operations shall be provided with hot and cold water, under pressure, which shall be dispensed by an approved type mixing faucet.

(4) All sewage, sink waste and waste water from water closets, lavatories and sinks operated in connection with food concessions or food operations shall be disposed of to a public sewer or a sewage disposal system approved by the County Health Officer and City Engineer.

(J) COMMUNICATION SYSTEM: Licensee shall be required to establish a communication system for public use where ordinary communications are not available.

(K) OTHER CONDITIONS: Any applicant may be required to meet any other condition prior to receiving a license to conduct a festival which is reasonably calculated as necessary to protect the health, welfare and property of local residents and persons attending a festival

8.02.10: PROHIBITED ACTS AND CONDITIONS: It shall be unlawful for any licensee, employee or agent of person associated with the licensee to do any of the following:

(A) Conduct or operate a festival without first procuring a license to do so.

(B) Sell tickets to a festival without a license first having been obtained.

(C) Operate, conduct or carry on any festival in such a manner as to create a public or private nuisance.

(D) Exhibit, show or conduct within the place of festival any obscene, indecent, vulgar or lewd exhibition, show, play, entertainment or exhibit no matter by what name designated.

(E) Allow any person on the premises of the licensed festival to cause or create a disturbance in, around or near any place of a festival by offensive or disorderly conduct.

(F) Knowingly allow any person to consume, sell or be in possession of intoxicating liquor while in a place of a festival, except where such consumption or possession is expressly authorized under the terms of this Chapter and under the laws of the State.

(G) Knowingly allow any person at the licensed festival to use, sell or be in possession of any narcotic or dangerous drug while in, around or near a place of the festival.

Any of the above-enumerated violations shall constitute a criminal act and shall be punishable pursuant to ordinances of the City and the laws of the State; provided, however, that the City retains any and all civil remedies, including the right of civil injunction, for the prevention of the violations and for the recovery of money damages therefor.

8.02.11: COMPLAINTS: Any person may file a complaint with the Clerk of the City Council or may petition the City Council to conduct a hearing concerning the revocation of the license of any licensee. The Clerk of the City Council shall notice the petition for hearing in accordance with the provisions of subsection 8.02.05A of this Chapter.

8.02.12: REVOCATION OF LICENSE: The City Council shall have the power to revoke any license or to revoke and reinstate any license upon suitable conditions when the following causes exist:

(A) The licensee fails, neglects or refuses to pay to the City the fee prescribed by this Chapter.

(B) The licensee, his employee or agent fails, neglects or refuses to fulfill any or all of the conditions imposed pursuant to this Chapter.

(C) The licensee allows the festival to be conducted in a manner which violates any law or regulation established by the ordinances of the City or the laws of the State.

(D) The licensee allows the festival to be conducted in a disorderly manner or knowingly allows any person to remain on the premises of the festival while under the influence of intoxicating liquor or any narcotic or dangerous drug.

(E) The licensee, his employee or agent is convicted of any of the offenses under Section 8.02.06 of this Chapter.

Notice of intent to revoke any license shall be given, and the licensee shall be entitled to a hearing. The Clerk of the City Council shall give notice, which notice shall set forth the cause for revocation and the time and place at which the matter of revocation will be heard before the City Council. The notice shall be mailed not later than ten (10) days prior to the date set for hearing. The City Council shall hear all interested parties and may revoke a license only for one or more causes enumerated by Section 8.02.06 of this Chapter.

8.02.13: COMPLIANCE WITH GENERAL BUSINESS AND LICENSE PROVISIONS: The provisions of Chapter 1 of this Title are required to be met for any outdoor festival in addition to the requirements of this Chapter.

TITLE 9. PUBLIC WORKS

CHAPTER 1: EXCAVATIONS AND ENCROACHMENTS

9.01.01: DEFINITIONS:
As used in this Chapter, unless the context otherwise requires, the following definitions apply:

CITY: The City of Fernley, Nevada, County of Lyon, State of Nevada.

CITY RIGHT OF WAY: The entire width of a public right of way whether shown on a recorded document or claimed by City as a prescriptive right of way. This includes land, property or interest therein offered for, acquired for, dedicated to or developed as a public right of way, whether or not the area of such is actually used as a right of way or maintained or accepted for maintenance by the City.

CONTRACTOR: Any person, public utility, private utility or improvement district created or existing under NRS chapter 309 or 318, that performs an excavation, street-cut or encroachment.

COUNCIL: The Fernley City Council.

COUNTY: Lyon County, a political subdivision of the State of Nevada.

COUNTY RIGHT OF WAY: The entire width of a public right of way whether shown on a recorded document or claimed by County as a prescriptive right of way. This includes land, property or interest therein offered for, acquired for, dedicated to or developed as a public right of way, whether or not the area of such is actually used as a right of way or maintained or accepted for maintenance by the County.

DEPARTMENT: The City of Fernley Public Works Department.

DIRECTOR: The City of Fernley Public Works Director.

ENCROACHMENT: Includes any tower, pole, pole line, pipe, pipeline, fence, stand, driveway, roadway, culvert, building excavation or any structure or object of any kind or character not particularly mentioned herein which is placed in, under or over any portion of the entire City right of way.

EXCAVATION: The movement or removal of earth, rock, pavement or other material in or on the ground. The term includes auguring, backfilling, digging, ditching, drilling, grading, plowing-in, ripping, scraping, trenching and tunneling.

LICENSED CONTRACTOR: A person who possesses a license issued under NRS chapter 624 and a City of Fernley business license to allow the person to engage in

excavation and construction activities.

PERSON: Any person, firm, partnership, association, corporation, district or organization.

STREET CUT: Any excavation in any improved portion of any City or County highway, street, alley, road or right of way.

UTILITY: The City of Fernley Water and Sewer Utility.

9.01.02: PERMIT REQUIRED; EXCEPTIONS:

(A) It is unlawful for any person to encroach or excavate within a City right of way without first obtaining a permit.

(B) In the case of an emergency requiring an immediate encroachment and/or excavation upon a City right of way when the Department is not open, the person making such shall notify the Lyon County Sheriff and appropriate fire department(s) of the encroachment and/or excavation with the location, time and extent thereof. The person making the emergency encroachment and/or excavation shall obtain a permit on the next business day following the encroachment and/or excavation whether the work has been completed or not.

9.01.03: PERMIT APPLICATION:

(A) ISSUANCE: The Director is authorized to issue written permits authorizing the permittee to do any of the following:
  (1) To make an excavation/street cut upon a City right of way;
  (2) To construct, install, build, place, change or remove any encroachment upon a City right of way; and/or,
  (3) To plant, remove, cut down, injure or destroy any tree, shrub, plant or flower growing upon any City right of way.

(B) APPLICATION:
  (1) All applications for a permit under this Chapter shall be made to the Department.
  (2) All applications shall be in writing on forms provided by the Department.
  (3) Each applicant shall have a licensed contractor perform any work described in the application and shall provide the contractors name, license classification and address thereon, unless the requirements of this Section are waived by the Director.
  (4) Each applicant for a permit allowing an encroachment shall include the following information in the application:
    (a) The name(s) of the owner(s) of the property abutting the portion of the City right of way upon which the encroachment is to be made;
    (b) The legal description of the property abutting the portion of the City right of way upon which the encroachment is proposed to be made;
    (c) A clean and legible drawing, which shows the affected property lines as they abut the right of way, the edge of the traveled portion of the right of way,

including shoulder areas, and the location, size, height and type of construction of the proposed encroachment; and

(d) All other information that the Director deems necessary.

(5) Each applicant applying for permit allowing a street cut or excavation, shall provide the following information:

(a)The time, date and location of the excavation;

(b) A concise description of the work to be completed; and,

(c) All other information that the Director deems necessary.

9.01.04: PERMIT; FEES:
Any and all fees associated with the City of Fernley right-of-way use permit shall be set by the City Council pursuant to resolution of the Council.

9.01.05: ENCROACHMENTS ALLOWED:
If the encroachment will not infringe on the public's ability to safely traverse the right of way or the right of way will not otherwise be adversely affected by allowing the encroachment, the Director may issue a City of Fernley right-of-way use permit to the applicant to allow the encroachment.

9.01.06: STREET CUTS; REQUIREMENTS PRIOR TO ISSUANCE:

(A) Bond: Every person seeking a City right-of-way use permit for the purpose of a street cut shall first execute, in City's favor, a bond or other suitable guarantee, in an amount sufficient to complete the total work requested by permittee plus ten percent (10%). City may collect on the bond or other like guarantee if the permittee fails to complete the work in accordance with the conditions set forth on the permit.

(B) Insurance: Every person making a street cut shall purchase and maintain a policy of comprehensive general liability insurance of limits not less than five hundred thousand/one million dollars ($500,000.00/1,000,000.00) aggregate limits. A certificate of insurance must be placed on file with the Director evidencing proof of coverage with a thirty (30) day notice of cancellation or change in coverage to the City.

(C) A single permit allowing the street cut is required for any single continuous excavation, master development, or series of test holes, cores, borings, pole anchors or pole holes, or any other individual openings less than three (3) square feet in area within an improved portion of the City right of way.

9.01.07: EXCAVATIONS, UNIMPROVED:
Any excavation performed on an unimproved section of the City right of way shall be subject to the same requirements prior to issuance as set forth in Section 9.01.06.

9.01.08: CITY OF FERNLEY RIGHT-OF-WAY USE PERMIT; FORM CONTENTS:
A City of Fernley right-of-way use permit shall be in the form and contain all the conditions and restrictions as provided by the City.

9.01.09: EXISTING ENCROACHMENTS:

(A) Any unpermitted encroachments existing at the time this Chapter becomes effective must be permitted, pursuant to the terms of this Chapter, within one year from the effective date of this Chapter.

(B) Following the one year period provided above, the Director may remove from the right of way any encroachment for which a permit has not been authorized which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within five (5) days after personal service of notice and demand upon the owner of the encroachment or his agent. In lieu of personal service upon that person or his agent, service of the notice may also be made by registered or certified mail and by posting, for a period of five (5) days, a copy of the notice on the encroachment described in the notice. Removal by the Director of the encroachment is subject to the failure of the owner to comply with the notice or demand given by the Director.

9.01.10: WAIVER:

The provisions of this Chapter may be waived by the Council upon application by the permittee.

9.01.11: CONCRETE CURBS, GUTTERS AND SIDEWALKS: Concrete curbs, gutters and sidewalks shall meet the requirements as specified in the Public Works Detail Sheets. All development in commercial, industrial and residential development zones shall require the “L”-type curb and gutter wherever curb and gutters are required. Rolled-type curb and gutters will not be allowed. (ORD 2002-0008)

CHAPTER 2: BOUNDARIES OF FERNLEY WATER AND WASTEWATER SERVICE DISTRICT

9.02.01: BOUNDARIES: The City of Fernley Utilities water and wastewater service district, formerly and/or commonly known as the Fernley Water District and Fernley Sanitation District, is hereby defined as the entire area included within the City of Fernley, i.e., all land and property within that part of Lyon County, Nevada, lying north of the east/west Township line between Township 18 North and Township 19 North, M.D.B. & M.

CHAPTER 3: RULES AND REGULATIONS FOR OPERATION AND MAINTENANCE OF CITY OF FERNLEY UTILITIES WATER DIVISION

9.03.01: WATER SYSTEM: The goal of City of Fernley Utilities is to develop a comprehensive, integrated water system to serve the residents within the City of Fernley to evaluate potable, reliable water service. To this end, City of Fernley Utilities will review every development within the Utility boundaries to evaluate, conjunctive with the developer, the feasibility of integrating the development, presently or in the future, with the Utilities municipal water system. The Utility will maintain a system, plant, works and undertaking used for and useful in obtaining, conserving and disposing of water for public and private uses, including all parts of the water system, all appurtenances to it, and lands, easements, rights in land, water rights, contract rights, franchises, and other water supply, storage and distribution facilities and equipment. The Utility has the right to accept or not accept any water system facilities for ownership and maintenance. Acceptance of water system improvements will be concluded in writing after a 1 year guarantee period, which begins when the project has been completed. Any property with or without a well, when within the Utility boundaries, may be required to connect to the Utility municipal water system if reasonably accessible. The Utility has the right to refuse service to any customer in the event the Utility deems that the customer or applicant would create a condition that, in the opinion of the Utility, could contaminate the water supply, wells, or aquifer.

9.03.02: PRESSURE CONDITIONS: All applicants for service connections or water service shall be required to accept such conditions of pressure and service as are provided by the distribution system at the location of the proposed service connection, and to hold the Utility harmless for any damages arising out of low pressure or high pressure conditions or interruptions in service.

9.03.03: MAINTENANCE OF WATER PRESSURE AND INTERRUPTION OF SERVICE FOR EMERGENCY REPAIRS: The Utility and Council shall not accept any responsibility for the maintenance of pressure and reserve the right to discontinue service while making emergency repairs and shutdowns required in the operation of the water system. Customers dependent upon a continuous supply shall provide their own emergency storage. Whenever the Utility finds it necessary to schedule an interruption to its service, it will, where feasible, notify all customers to be affected by the interruption, stating the approximate time and anticipated duration of the interruption. Scheduled interruptions will be made at such hours as will provide least inconvenience to the customers consistent with reasonable Utility operations.

9.03.04 APPORTIONMENT OF WATER DURING TIMES OF SHORTAGE: During time of threatened or actual water shortage, the Utility will apportion its available water supply among its customers as directed by the Council with due

regard to public health and safety.

9.03.05: TAMPERING WITH UTILITY PROPERTY: No one except an employee or representative of the Utility shall at any time operate any portion of the Utility's system, or interfere with other parts of the water system.

9.03.06: EXCAVATIONS: Any person or entity wishing to excavate within the Fernley Utility District boundary must obtain line location information at least 48 hours before commencing any work. The Utility will only be liable for any requested Utility line locates that are marked in the field by the Utility that exceed two feet on any outside face of a water main or buried appurtenance.

9.03.07: BONDING: All water projects installed by developers are required to be bonded before the project begins to insure completion. The Council shall require posting of a 110% surety bond, cash or other improvement security with the Utility to guarantee the satisfactory completion of any improvements to the City's water system.

9.03.08: PENALTY FOR VIOLATION. In addition to any other provision of these regulations, for the failure of the customer to comply with any regulation of the Utility, the customer's service may be discontinued. Water service shall not be restored to such customer until he shall have complied with the rule or regulation.

9.03.09: DECISIONS OF PUBLIC WORKS DIRECTOR FINAL: All decisions of the Public Works Director shall be final unless appealed in writing to the Council within ten (10) working days. In such appeals, the Council's decision shall be final.

9.03.10: DEFINITIONS:
APPLICANT: The person, firm, association, corporation or government agency applying for water service.

BOUNDARIES: The City of Fernley Utilities Water service district, defined in Fernley Town Ordinance #7.

COMMERCIAL\INDUSTRIAL SERVICE: Service to customers other than residential.

CONNECTION: The pipeline and appurtenant facilities such as the curb stop, meter and meter box, all used to extend water service from a main to premises, the laying thereof and the tapping of the main. Where services are divided at the curb or property line to serve several customers, each such branch service shall be deemed a separate service.

CONNECTION FEE: A fee paid to receive water service from Fernley Utilities.

COSTS: The cost of labor, material, transportation, supervision, engineering, field testing and all other expenses.

COUNCIL: The Fernley City Council.

CROSS-CONNECTION: Any physical connection between the piping system from the City of Fernley Utilities services and that of any other water supply that is not, or cannot be, approved as safe and potable for human consumption, whereby water from the unapproved source may be forced or drawn into the Fernley Utilities distribution mains.

CUSTOMER: The person in whose name the service is rendered as evidenced by the signature on the application or contract for that service, or in the absence of a signed instrument, by the receipt and payment of bills regularly issued in applicants name regardless of the identity of the actual user of the service.

DEVELOPER: A person who subdivides or develops a piece of property.

DROUGHT: A prolonged period of dryness.

MAIN: A water line in a street, highway, alley or easement used for public and private fire protection and for general distribution of water.

MAIN EXTENSION: The extension of water distribution mains and other improvements to the Utility's system.

METERED SERVICE: Service for which charges are computed on the basis of measured quantities of water.

MINIMUM CHARGE: The minimum amount that the Customer must pay the Utility for the availability of water service, irrespective of whether any water is used, as specified by the applicable rate schedule.

MOBILE HOME PARK: Means any parcel that has mobile park zoning or any parcel with more than two mobile homes.

OWNER: The person in whose name the legal title to the property appears, by deed duly recorded in the Lyon County recorder's office, or the person in possession of the property or buildings under claim of, or exercising acts of ownership over same for himself, or as executor, guardian or trustee of the owner.

PERMANENT SERVICE: Service which, in the opinion of the Utility, is of a permanent and established character. The use of water may be continuous, intermittent or seasonal in nature.

PERSON: An individual or a company, association, co-partnership or public or private corporation, governmental agency, or other organization operating as a single business entity.

PREMISES: A lot or parcel of real property under one ownership.

PRIVATE FIRE PROTECTION SERVICE: Water service and facilities for building sprinkler systems, hydrants, hose reels, backflow prevention devices, detector checks, and other facilities installed on private property for fire protection.

PUBLIC FIRE PROTECTION SERVICE: The service and facilities of the entire water supply, storage and distribution system of the City of Fernley Utilities, including the fire hydrants affixed thereto, and the water available for fire protection.

PUBLIC WORKS DIRECTOR: The utility manager of Fernley City Utilities.

RATE SCHEDULE: The rates, charges, and fees, for water service as established by the Council.

REGULAR WATER SERVICE: Water service and facilities rendered for normal residential, commercial and industrial purposes on a permanent basis, and the water available therefor.

RESIDENTIAL SERVICE: Service to a customer supplied for residential purposes in a single family dwelling or building, or individual apartment in a multiple family dwelling, or building or portion thereof occupied as the home, residence or sleeping place for one or more persons.

STATE LAB: Nevada State Health Labs located in Reno and Carson City.

TEMPORARY WATER SERVICE: Water service and facilities rendered for construction work and other uses of limited duration.

UTILITY: City of Fernley Water and Sewer Utilities.

WATER DIVISION: City of Fernley Utilities performing functions related to water service.

WILLSERVE: The written approval for water service from City of Fernley Public Works Department.

9.03.11: NOTICES
(A) To customers. Notices from Fernley Utilities to a customer will normally be

given in writing, and either delivered or mailed to last known address. Where conditions warrant and in emergencies, the Fernley Utilities may provide notification either by telephone, messenger, or door hanger.

(B) From customers. Notice from the customer to Fernley Utilities may be given by customer or his authorized representative in writing at the Utility's office.

9.03.12: FORM – INFORMATION: An applicant shall make written application for water service. A purchaser or successor of interest in a commercial or industrial account shall sign a new application for service within five working days to assume the responsibility for an account.

9.03.13: APPLICANT COMPLIANCE: By signing an application, applicant agrees to observe any regulations now and hereafter adopted related to the water service. Any applicant for a willserve or water service may be refused service by the Utility when in the opinion of the Utility it is detrimental to the Utility.

9.03.14: RESALE OF WATER: Except by special agreement with the Utility, no customer shall resell any of the water received from the Utility, nor shall such water be delivered to premises other than those specified in such customer's application for service.

9.03.15: CONNECTION FEE: The fee shall be paid according to the Rate Schedule. The connection charge shall be a one-time fee. The parcel number to which the service applies must be specified. The connection fee for a single-residence unit (e.g. a house, mobile home or manufactured housing unit) shall be paid before a building permit is obtained. The connection fee for multiple-residence units (e.g. apartments or condominiums), commercial and industrial units shall be paid at least two (2) days before the installation of the water meter.

9.03.16: FEES FOR TENTATIVE PROJECTS: Monies paid for utility fees that are to be applied to tentative projects, may be held in a separate bank, trust, or escrow account and are refundable if the project is abandoned.

9.03.17: PAYMENT FOR PREVIOUS SERVICE: An application will not be honored unless payment in full has been made for water service previously rendered to the applicant by the Utility.

9.03.18: INSTALLATION CHARGE: All charges for a service installation shall be paid in advance by the applicant. In addition to any other charge or deposit herein provided for the charge for the installation of a service connection shall be set from time to time by motion of the Council as found in the Fernley Rate Schedule.

9.03.19: INSTALLATION OF SERVICES: Regular water services will be installed at a location and size to be determined by the Water Division. Only duly authorized

employees or agents of Fernley Utilities will be authorized to install service connections. Service installation will be made only to property abutting on distribution mains as have been constructed in public streets, alleys or easements, or to extensions thereof as herein provided. Service installed in a new subdivision prior to the construction of streets or in advance of street improvements must be used by the applicant in the installed location. No other Utility services or appurtenances are allowed in Utility trenches unless approved by Fernley Utilities. The Utility shall specify if a water main may be “tapped” wet or dry.

9.03.20: CHANGES IN CUSTOMER’S EQUIPMENT: Customers making any material change in the size, character or extent of the equipment or operations utilizing water service, or whose change in operations results in a large increase in the use of water, shall immediately give Fernley Utilities written notice of the nature of the change, and, if necessary, amend their applications and pay any additional applicable charges.

9.03.21: SIZE AND LOCATION: Fernley Utilities reserves the right to determine the size of service connections and their location with respect to the boundaries of the premises to be served. The laying of customer’s pipeline to the curb shall not be done until the location of the service connection has been approved by the Utility. Existing water meter structures that are outside an existing easement as of the date of these regulations will remain in place unless the customer wishes to pay for the movement of such structures back into the easement. In the event the Utility has maintenance to perform on such a water structure, the Utility may at its expense move the water structure back into the easement area. Obstructions of any sort are not allowed within a reasonable working distance around any water structure, pursuant to Fernley City Ordinance # 5.

9.03.21: CURB VALVE: Every service connection installed by Fernley Utilities shall be equipped with a curb valve on the inlet side of the meter. Such valve is intended for the exclusive use of Fernley Utilities in controlling the water supply through the service connection pipe. If the curb valve or any other part of water meter assembly and box is damaged by the customer, replacement or repair shall be at the customer’s expense.

9.03.22: RESIDENTIAL, COMMERCIAL AND INDUSTRIAL SERVICE CONNECTION: It is unlawful to establish or maintain a connection excepting in conformity with the following rules:

(A) SEPARATE BUILDING. Each house or building under separate ownership must be provided with a separate service connection. Two or more houses under one ownership and on the same lot or parcel of land may be supplied through the same service connection, provided that for each house under a separate roof an additional monthly minimum billing will be applied and additional connection fee is paid. The Utility reserves the right to limit the

number of houses or the area of land under one ownership to be supplied by one service connection.

(B) SINGLE CONNECTION. No more than one service connection for residential or commercial supply shall be installed for one building, except under special conditions.

(C) DIFFERENT OWNERS OR PROPERTIES: A service connection shall not be used to supply adjoining property of a different owner or to supply property of the same owner across a street or alley.

(D) DIVIDED PROPERTY: When property provided with a service connection is divided, each service connection shall be considered as belonging to the lot or parcel of land which it directly enters.

9.03.23: HOTELS, MOTELS, CONDOMINIUMS, APARTMENTS, ANY OTHER MULTIPLE COMPLEXES: A master meter shall be installed at the property line of these types of facilities. The master meter and associated construction parts and costs for the development, meeting the Utility's specifications, shall be installed at no expense to the Utility.

9.03.24: SERVICE CONNECTIONS: The service connections extending from the water main to the property line and including the meter, meter box and curb valve, on the supply side of the meter shall be maintained by the Utility. All pipes and fixtures extending or lying beyond the property line into or on the property shall be installed and maintained by the owner of the property. Customers are required to have a shut off device on their side of the water meter installation for their use to shut off water in an emergency.

9.03.25: MAIN EXTENSIONS:

(A) REQUIREMENTS: The following requirements shall apply to main extensions:

(1) APPLICATIONS: An applicant for main extension shall make a written application to the Utility, containing the legal description of the property to be served and any additional information which may be required by the Utility, and shall be accompanied by a map showing the location of the proposed connections.

(2) INVESTIGATION: Upon receipt of the application, the Utility manager shall make an investigation and survey of the proposed extension and shall report his findings to the Council, including the estimated cost.

(3) RULING: The Council shall consider said application and report, and after such consideration, reject or approve it.

(4) CITY LINES: All extensions thus provided for, in accordance with these regulations, shall be and remain the property of Fernley Utilities.

(5) DEAD-END LINES: No dead-end lines shall be permitted, except at the discretion of the Public Works Director, and in cases where circulation

lines are necessary they shall be installed by the developer as a part of the cost of extension.

(6) FRONTAGE EXTENSION: Unless waived by the Utility, all extension mains shall run along the entire frontage of the developer's lot or parcel.

(7) Applicant must comply with all applicable laws, statutes, ordinances and regulations, specifically including Chapter 7 of this Title.

(B) SPECIFICATIONS AND CONSTRUCTION: The size, type and quality of material and location of the lines shall be specified by the Utility and supervised and inspected by the Utility, and shall include consideration of the best interests of the Utility's water system. The developer shall physically mark in the field all water structures and provide triangulation measurements on the As-built Drawings. Water lines in subdivisions will be marked at the curb with an approved permanent method. The developer is responsible for all costs and expenses of the Utility relating to the installation of the water system, including, but not limited to, the Utility's costs of engineering, inspections, legal and administrative expenses. All water mains must be a minimum size of 8", except fire hydrant laterals, which must be 6". Any water main line extensions or new construction require inline valves to be installed at specified distances as approved by the Utility at the expense of the developer. The Utility shall specify if a water main is "tapped" wet or dry. All newly constructed water mains and appurtenances shall be pressure tested to Utility specifications. All water mains will be disinfected to Nevada State Health Division standards. Water samples will be taken by the developer and processed at the State Lab. No water service will be provided until all tests and inspection reports are approved by Utility.

9.03.26: SUBDIVISIONS and MOBILE HOME PARKS

(A) APPLICATIONS – REQUIRED: A person desiring to provide a water system within a tract of land which he proposes to subdivide shall make written application via a tracker form at Fernley Utilities.

(B) APPLICATION – CONTENTS: The application shall state the Lyon County parcel number of the tract, the name of the subdivision and its location. It shall be accompanied by initial sketches, a copy of a tentative map, and of the plans, profiles and specifications for the street work therein.

(C) INVESTIGATION: Upon receiving the application, the Utility manager shall make an investigation and survey of the proposed subdivision and shall report his findings to the Council, including a recommendation as to the facilities required and the estimated cost of the proposed water system therefor.

(D) SPECIFICATIONS AND CONSTRUCTION: The size, type and quality of material and location of the lines shall be specified by the water division and supervised and inspected by the Utility. The developer shall physically mark in the field all water structures and provide triangulation measurements on

the As-built Drawings. Water lines within subdivisions will be marked at the curb with an approved permanent method. The developer is responsible for all costs and expenses of the Utility relating to the installation of the water system, including, but not limited to, the Utility's costs of engineering, inspections, legal and administrative expenses. All water mains must be a minimum size of 8". Any water main line extensions or new construction require inline valves to be installed at specified distances to be approved by the Utility at the expense of the developer. The Utility reserves the right to specify any other appurtenances it deems necessary, at the expense of the developer. The Utility shall specify if a water main may be “tapped” wet or dry. All newly constructed water mains and appurtenances shall be pressure tested to Utility specifications. All water mains will be disinfected to Nevada State Health Division standards. Water samples will be taken by the developer and processed at the State Lab. No water service will be rendered until all tests are approved and all inspections reports are in the hands of the Utility.

(D) PROPERTY OF UTILITY: All facilities shall become the property of the Utility after a one year guarantee period starting at the completion date of the project provided the facilities meet all Utility specifications.

(E) MOBILE HOME PARKS: A master meter shall be installed at the property line of a mobile home park with the water consumption billed pursuant to the Rate Schedule.

(F) MOBILE HOME PARK CONNECTION FEES: The connection fees shall be charged pursuant to the Rate Schedule. A connection fee shall be charged for each space within the mobile home park, to be collected before construction commences.

9.03.27: GENERAL USE REGULATIONS

(A) NUMBER OF SERVICES PER PREMISES: The applicant may apply for as many services as may be reasonably required for the premises provided that the facilities for each service be independent of all others and that they not be interconnected. Separate connection fees shall be paid for each service line.

(B) WATER WASTE: Customers are required to abide by the City of Fernley Water Conservation Plan. No customer shall knowingly permit leaks, excessive use, or waste of water.

(C) IMPROPER USE OF A NEW SERVICE: Any person using water from a new service without having complied with the utility's application, installation, testing or inspection procedures shall be:
(1) Liable for all injury and\or damage caused by the use of the service.

(2) Liable to the Utility for all costs incurred because of the use; and
(3) Prosecuted at law, at the discretion of the Utility.

(D) RESPONSIBILITY FOR EQUIPMENT ON CUSTOMER PREMISES: All facilities installed by the Utility on private property for the purpose of rendering water service shall remain the property of the Utility and may be maintained, repaired or replaced by the Utility without consent or interference of the owner or occupant of the property. The property owner shall use reasonable care in the protection of the facilities. No payment shall be made to the property owner for placing or maintaining said facilities on private property. The customer shall, at his own risk and expense, furnish, install and keep in good and safe condition all equipment that may be required for receiving, controlling, applying and utilizing water, and the Utility shall not be responsible for any loss or damage caused by the improper installation of such equipment, or the negligence or wrongful act of the customer or any of his tenants, agents, employees, contractors, licensees or permittee in installing, maintaining, operating or interfering with such equipment. The Utility shall not be responsible for damage to property caused when faucets, valves and other equipment are open when water is turned on at the meter, either originally or when turned on after a temporary shutdown.

(E) DAMAGES THROUGH LEAKING PIPES AND FIXTURES: When turning on the water supply as requested, unless the customer or an assigned agent requests to be present the Utility will activate the water service and will not be responsible for any damage that occurs on the customer’s property.

(F) DAMAGE TO WATER SYSTEM FACILITIES: The customer shall be liable for any damage to the service facilities when such damage is from causes originating on the premises by an act of the customer or his tenants, agents, employees, contractors, licensees or permittee, including the breaking or destruction of locks by the customer or others on or near a meter, and any damage to a meter that may result from hot water or steam from a boiler or heater on the customer’s premises or any other damage deemed by the Utility as the customer’s fault. The Utility shall be reimbursed by the customer for any such damage promptly on presentation of a bill unless other arrangements are made with the Utility.

(G) GROUND-WIRE ATTACHMENTS: No ground wire shall be attached to any plumbing which is or may be connected to a service connection or main belonging to the Utility. The customer shall be liable for any damage to utility property caused by such ground-wire attachments.

(H) CONTROL VALVE ON THE CUSTOMER PROPERTY: The customer shall provide a valve on his side of the service installation, as close to the meter location as practicable, to control the flow of water to his premises. The customer shall not use the Utility service curb stop to turn water on and off.

(I) CROSS-CONNECTIONS - BACK FLOW PROTECTION DEVICES: The customer must comply with state and federal laws governing the separation of dual water systems or installations of back flow protective devices to protect the public water supply from the danger of cross-connections. Back flow protective devices must be installed as near the service as possible and shall be open to test and inspection by the water division. Plans for installations of back flow protective devices must be approved by the water division prior to installation. The Utility may refuse or discontinue service until there is installed at the expense of the customer a suitable approved protective device, as required by the State Health Division, other State or Municipal authorities having jurisdiction, and the Utility.

(J) CROSS-CONNECTIONS - SPECIAL CASES: In special circumstances, when the customer is engaged in the handling of especially dangerous or corrosive liquids or industrial or process waters, the Utility may require the customer to eliminate certain plumbing or piping connections as an additional precaution and as a protection to the back flow protective devices.

(K) RELIEF VALVES: A suitable pressure relief valve may be required on some private facilities and must be installed and maintained by the customer. When check valves or other protective devices are used the relief valve shall be installed between the check valves and the water heater or other facilities.

(L) BACK FLOW DEVICE - WHEN REQUIRED ON ALL SUPPLY LINES TO ONE PREMISES: Whenever back flow protection has been found necessary on a water supply line entering a customer’s premises, then any and all water supply lines from the Utility's mains entering such premises, building or structures shall be protected by an approved AWWA back flow device.

(M) BACK FLOW DEVICE – INSPECTION: The double check valve or other approved AWWA back flow protection devices may be inspected and tested periodically for water tightness by the Utility. The devices shall be serviced, overhauled or replaced whenever they are found defective and all costs of repair and maintenance shall be borne by the customer.

(N) BACK FLOW DEVICE - DISCONTINUED SERVICE: The service of water to any premises may be immediately suspended by the Utility if any defect is found in the check valve installations or other protective devices, or if it is found that dangerous unprotected cross-connections exist. Service will not be restored until such defects are corrected.

(O) LIABILITY FOR INTERRUPTION IN SERVICE: The Utility shall not be liable for damage which may result from an interruption in service from a cause beyond the control of the Utility.

(P) RIGHT OF ENTRY: Representatives from the utility shall have the right of ingress and egress to the customer's premises at reasonable hours for any purpose reasonably connected with the furnishing of water service.

(Q) WELLHEAD PROTECTION PROGRAM: All water service is subject to the requirements of the Fernley Wellhead Protection Program.

(R) HAZARDOUS MATERIALS: Removal of underground tanks and other hazardous materials from inside the Utility boundaries requires notification to the Utility and coordination with State, County and Local officials.

(S) POOLS AND TANKS: When a large quantity of water is for filling a swimming pool or for other purpose, arrangements must be made with the Utility prior to taking such water. Permission to take water in unusual quantities will be given only if and when it can be safely delivered through the Utility's facilities and if other customers are not inconvenienced.

9.03.28 METERS:

(A) INSTALLATION COSTS: All service shall be metered and the meter location will be designated by the Utility. The installation costs shall be paid to the Utility at the time water connection fee is paid. Meters will be installed in the street, sidewalk, or easement and shall be owned by the Utility. All meters will be sealed by the Utility at the time of installation, and no seal shall be altered or broken except by one of its authorized employees or agents.

(B) CHANGE IN LOCATION: Meters moved for the convenience of the customer will be relocated at the customer's expense. Meters moved for Utility's purposes will be moved at the Utility's expense.

(C) TESTING: All meters will be tested prior to installation and no meter will be installed which registers more than two percent (2%) fast or slow. If a customer desires to have an existing meter serving his premises tested, he shall pay for the cost of testing. Should the meter register more than two percent fast or slow, the cost will be refunded, but should the meter register two percent or less, the cost of testing will be borne by the customer.

(D) ADJUSTMENT FOR ERRORS - FAST METERS: If a meter tested at the request of a customer is found to be more than two percent fast, the excess charges for the time service was rendered the customer requesting the test, or for a period of six months, whichever is the lesser, shall be refunded to the customer.

(E) ADJUSTMENT FOR ERRORS - SLOW METERS: If a meter tested at the request of a customer is found to be more than two percent slow, the Utility may bill the customer for the amount of undercharge based upon corrected meter readings for the period, not exceeding six months, that the meter was

in use.

(F) NONREGISTERING METERS: If a meter is found to be nonregistering, the charges for service shall be at the minimum monthly rate or based on the estimated consumption, whichever is greater. Such estimates shall be made from previous consumption for a comparable period or by such other method as is determined by the Utility.

(G) DAMAGE TO METERS: The customer shall be liable for any damage to the meter due to the customers negligence or carelessness.

9.03.29: DEPOSITS:

(A) ESTABLISHMENT – MAINTENANCE: Each applicant for service shall establish and maintain credit to the satisfaction of the Utility by a guaranteed deposit before service will be rendered.

(B) GUARANTEE DEPOSIT: The deposit required for water service pursuant to the existing rate schedule will be paid for with cash or check. If a deposit is paid with a check and subsequently the check does not clear the bank, service will be immediately terminated and, a charge of $50 shall be paid by the customer along with a mandatory cash deposit before service will be restored.

(C) DEPOSIT REESTABLISHMENT: Any amount due for water service that remains unpaid for 45 days after presentation of a bill may be deducted from the guarantee deposit, and service shall be subject to discontinuance until the deposit is restored. Any customer who receives two 45 day delinquency notices in a one year period shall be required to pay a new guarantee deposit, or update the deposit to the current rate.

(D) RETURN OF GUARANTEE DEPOSIT - PROPERTY OWNER: A guarantee deposit on an account which has not been in arrears at any time during a 12 month period is returnable after the expiration of said period, without interest. If the service is discontinued in less than a year, the deposit will be returned after all outstanding bills for water service have been paid. Any deposit uncalled for within five years from the date when made will become the property of and be retained by the Utility.

(E) RETURN OF GUARANTEE DEPOSIT – RENTER: Deposits made by a renter shall be refunded only on termination of service.

9.03.30: BILLING AND FEES:

(A) BILLING PERIOD: The regular billing period will be monthly.

(B) METER READING: Meters will be read as nearly as possible on the same day of each month.

(C) PARTIAL BILLING PERIOD: Service for less than the normal billing period shall be billed for not less than a one month minimum charge.

(D) PAYMENT: Water charges are due and payable at the office of the Utility on or before the 20th day of the month and are delinquent if not paid before the next month's bill is issued.

(E) RENTALS: Property owners shall be responsible for water bills for rental properties if the renter fails to pay the bills. Water service is subject to discontinuance to customers who are twenty (20) days in arrears.

(F) LENGTH OF SERVICE: Water service begins at the date of application for service, or at a later date approved by the Utility. The water charge begins when a service connection is installed and the meter is set, unless the water is ordered to be left shut off when the service connection is installed. To discontinue service, the customer must notify the Utility at least twenty four hours prior to vacating the premises. The customer shall continue to be liable for the charges whether or not the water is used, unless discontinuance of service is ordered or a new customer takes over the service.

(G) WATER USED WITHOUT REGULATION APPLICATION: A customer taking possession of premises and using water from an active service connection without having made application to the Utility for water service shall be held liable for the water delivered from the date of the last recorded meter reading, and if the meter is found inoperative, the quantity consumed will be estimated.

(H) ADMINISTRATIVE CHARGES: The Utility may establish, with the Council's approval, reasonable charges for late fees, bank charges for returned checks, service reestablishment charges, and other administrative charges.

(I) PENALTY ON UNPAID BALANCE: Rates and charges which are not paid on or before the next regular water service billing date may be subject to a late penalty in accordance with the Rate Schedule.

(J) RATE STRUCTURE
The City Council shall fix the following by resolution:
(1) Water User Fees;
(2) Sewer User Fees;
(3) Utility Miscellaneous Fees

(K) WATER BOND DEBT FEE:

(1) Each property owner with a connection to the municipal water system; will be charged a fee equal to that of their meter size capacity. Should a property only have a will-serve commitment letter and no meter installed, said property will be charged the base rate until such time as a meter is installed. All water bond debt fees shall be collected through the property tax bills issued by and collected through the Lyon County Assessor.
(2) Each property will be audited on an annual basis for changes in the meter size capacity. All changes will be reflected in the next fiscal years property tax statement.

9.03.31: DISCONTINUANCE OF SERVICE:

(A) LIABILITY: Failure to receive a billing statement does not relieve customer of liability. Any amount due shall be deemed a debt to the Utility, and any person, firm or corporation failing, neglecting or refusing to pay said indebtedness shall be liable to an action by the Utility in any court of competent jurisdiction for the amount thereof.

(B) RECONNECTION CHARGE: A reconnection charge plus penalties will be made and collected prior to renewing service following a discontinuance as reflected in the rate schedules.

(C) UNSAFE APPARATUS: If any unsafe or hazardous condition is found to exist on the customer's premises, or if the use of water thereon by apparatus, appliances, equipment or otherwise is found to be detrimental or damaging to the Utility or its customers, the service may be shut off without notice. The Utility will notify the customer immediately of the reasons for the discontinuance and the corrective action to be taken by the customer before service can be restored.

(D) CROSS-CONNECTION: Water service may be refused or discontinued to any premises where there exists a cross-connection in violation of any law or ordinance.

(E) IMPROPER\ILLEGAL SERVICE: If the Utility discovers that a Customer improperly or illegally connected to or altered water service, service to that Customer may be discontinued without notice. Service will not be restored until the Customer has complied with all rules and requirements of the Utility and the Utility has been reimbursed for the full amount of the service rendered and the actual cost to the Utility incurred by reason of the improper or illegal use, including court costs and legal fees.

(F) NONCOMPLIANCE WITH REGULATIONS: Service may be discontinued for noncompliance with any regulation relating to the water service.

9.03.32 PUBLIC FIRE PROTECTION:

(A) FIRE PROTECTION: Public fire protection service will be installed at the

expense of the applicant by the Utility or other responsible party acceptable to the Utility. Fire hydrants and public fire protection facilities will be installed meeting the requirements of the Utility and other applicable agencies' guidelines. Public fire hydrants and facilities will be maintained by Fernley Utilities.

(B) FIRE HYDRANT LOCATION AND SPECIFICATIONS: Fire hydrants shall be located as specified by the Utility and also must meet local fire district specifications. The Utility has the right to exceed local fire protection specifications. Fire hydrant laterals must be a minimum of 6".

(C) USE OF FIRE HYDRANTS: Fire hydrants are for use by the Utility and organized fire protection agencies. Other parties desiring to use fire hydrants for any purpose must first obtain written permission from the Utility prior to use and shall operate the hydrant in accordance with instruction issued by the Utility and use a hydrant meter to record water usage for payment in accordance with the Rate Schedule. Unauthorized use of hydrants will be prosecuted according to law.

(D) CHARGES: A charge may be imposed for hydrant maintenance and water used.

(E) MOVING FIRE HYDRANTS: A change in the size, type or location of a hydrant must be approved by the Utility and the costs of such changes shall be borne by the applicant.

(F) OBSTRUCTION OF FIRE HYDRANTS: Obstructions of any kind are prohibited within three feet of a fire hydrant.

(G) USE OF WATER: Unless approved by the Utility, there shall be no water used through the fire protection service except to extinguish fires and for testing the fire fighting equipment.

(H) NO CONNECTION TO OTHER SYSTEM: There shall be no connections between a fire protection system and any other water distribution system.

9.03.33: PRIVATE FIRE PROTECTION:

(A) CONNECTION TO ANY OTHER SYSTEM: There shall be no connections between a fire protection system and any other water distribution system.

(B) USE: The following rules shall apply to fire service connections:

(1) VALVE: When a fire service connection is installed, the valve will be closed and sealed and remain so until a written order is received from the customer to have the water turned on.

(2) CHECK VALVE: The Utility requires all fire service connections to be installed with a double check valve of a type approved by the National Council of Fire Underwriters.
(3) There shall be no water used through the fire protection service except to extinguish fires and for testing fire fighting equipment.

9.03.34: MONTHLY RATES: The monthly rates for private fire protection shall be contained in the Rate Schedule.

9.03.35: WATER FOR FIRE STORAGE TANKS: Water may be obtained for a private fire service for filling an Utility approved tank connected with the fire service, but only if written permission is secured from the Utility.

9.03.36: VIOLATION OF AGREEMENT: If water is used from a private fire service in violation of the agreement or of these regulations, the Utility may, at its option, discontinue and remove the service.

9.03.37: WATER PRESSURE AND SUPPLY: The Utility assumes no responsibility for loss or damage due to lack of water or pressure, either high or low, and merely agrees to furnish such quantities and pressures as are available in its general distribution system. The service is subject to shutdowns and variations required by the operation of the system.

9.03.38: TEMPORARY SERVICE:
(A) SERVICE: The Utility may provide temporary service to a property for a specified period of time pursuant to a written agreement.

(B) DEPOSIT: The applicant shall deposit in advance the estimated cost of installing and removing the facilities required to furnish said service exclusive of the cost of salvageable material. Upon discontinuance of service the actual cost shall be determined and an adjustment made as an additional charge, refund or credit.

9.03.39: REIMBURSEMENTS FOR MAIN EXTENSIONS AND NEW FACILITIES:
(A) AGREEMENTS: The City and developers, customers and/or other parties may enter into agreements for the reimbursement or repayment of the costs of construction of main extensions or other improvements to the Utility system, subject to the requirements of this chapter:
(1) To the City, if the City provides the construction of the project, from the customers along the new line.
(2) To the developer or other party who provides the construction of the project, from the Utility upon receipt of funds from customers along the new line for reimbursement of the project costs. Such reimbursements shall not become general obligations of City.

(B) REIMBURSABLE COSTS: The reimbursable costs may include the actual

costs of construction of the main extension and\or other new facilities, including oversizing; related design, planning, engineering, inspection and testing fees and costs; and the Utility's administration and overhead costs incurred.

(C) REIMBURSEMENT AMOUNTS: The amount to be reimbursed by each new customer who utilizes the main extension or other new facilities will be determined by dividing the square footage of the customer's lot or parcel by the total square footage of all the lots or parcels included in the project, then multiplying the total cost of the project by that same fraction or percentage. For purposes of determining the total square footage of the lots and parcels included in the project:

(1) The area of use will be defined to include lots/parcels that could use the main as their primary water source, and will not include excess acreage of a large parcel that has some small frontage. The area of use will be mapped for reference.

(2) If a lot or parcel within the area of use is sub-parceled or subdivided, the reimbursement amount will be divided pro rata between or among the new parcels or lots so created, again determined by the square footage.

(D) TIME OF PAYMENT: The reimbursement amount shall be due and payable at the time of connection of the property to the main extension or other new line or facility, or at such other times as may be approved by the City by written agreement. The reimbursement amount must be paid or the written agreement executed before water service is provided to the property.

(E) EASEMENTS AND RIGHTS-OF-WAY: The provider of the new line or facility must obtain legal easements for the Utility for the new line or any portion thereof which would not be located in an existing utility easement or right-of-way.

(F) OVERSIZING: In the event the main extension or new line is required to be larger in diameter than the developer would need because of the number of additional customers to be served, the costs of material for oversizing of the main extension or construction of extra facilities shall be included in the reimbursable costs. The oversizing costs shall consist of the difference between the price of the larger pipe or other materials and the price of the pipe that would be sufficient if the line were only to service that property alone.

(G) TIME LIMIT FOR REIMBURSEMENT: All reimbursement agreements shall be limited to ten (10) years, or such shorter period as may be required by the City.

(H) CONSTRUCTION OF PROJECT: The City shall decide whether to construct the project or to allow the developer or other party to build the project. No

construction may begin before execution of the written reimbursement agreement.

(G) BIDDING REQUIREMENTS: If the City provides the construction, the bidding laws and requirements applicable to the City shall be used. A developer doing infrastructure improvements under the reimbursement agreement process must obtain a minimum of two acceptable bids, to the City, and shall utilize the lowest bid.

(H) AGREEMENT BINDING ON SUCCESSORS: Reimbursement agreements shall be binding on the heirs and successors in interest of the parties to the reimbursement agreement.

(I) MODIFICATIONS OF AGREEMENT: Reimbursement agreements may be altered, modified or amended only in writing by the parties.

CHAPTER 4: OBSTRUCTION OF WATER AND WASTEWATER UTILITY METERS AND EQUIPMENT

9.04.01: OBSTRUCTION OF UTILITY EQUIPMENT PROHIBITED: No property owner or other person shall fence, screen, build around, or otherwise partition off any water or wastewater equipment, including but not limited to meters, manholes, fire hydrants, panels, or other access equipment, in such a way as to restrict, limit or otherwise obstruct access to said utility from a public street, alley or way, without the express written consent of the subject utility.

9.04.02: CORRECTION OF VIOLATION: Upon any violation of this ordinance, after notice to the property owner or other responsible party, who then refuses to correct the violation, the City may hire or cause an appropriate correction of the violation, including the installation of a gate or other access to the utility equipment, which shall then be charged to the property owner or legally responsible person.

CHAPTER 5: WATER SHORTAGE AND WASTE OF WATER

9.05.01: DECLARATION OF PURPOSE: The City recognizes the need to maintain a sufficient supply of water to meet the needs of City residents. At times it may become necessary to impose restrictions on the use of water to ensure that City may provide adequate and equal amounts of water to the residents of the City. In order to ensure the availability of an adequate supply of water to the residents of the City of Fernley, the City Council may, after a declaration of water shortage is made, as provided in this section, or upon a finding that water is being wasted, additionally restrict the use of water for certain outdoor uses or household purposes and limit the time within which water may be used for those purposes.

9.05.02: DEFINITIONS:
HOUSEHOLD PURPOSES: The purposes for which a person uses water inside a residence, and excluding all outside uses.

OUTDOOR WATERING: All uses of water which occur outside the residential dwelling, including watering of trees, grass, shrubbery, or vegetation and washing vehicles.

RUNNING TO WASTE: The intentional application, expenditure or use of water in such a way that the water can be observed collecting in pools to a depth of one inch (1") or more or in any depressed area or flowing or running across the ground or any surface area in a manner that is excessive for the use or nonuse to which the water is being put.

USER: The record owner, as such owner is defined by the records of the Lyon County assessor, or occupant for the time being of such property or location connected to a utility from which a waste of water originates on or from.

UTILITY: Each entity operated by the City of Fernley, for the purpose of providing water and/or sewage services to residents of Fernley, Nevada.

WASTE OF WATER: Consumption of water which results in:
(A) Water running to waste; or

(B) Intentionally using, expending or applying the water supply provided by any utility in a manner contrary to any water conservation or use restriction, regulation, policy, rule, condition, directive, ordinance, or request that has been issued to the users of the utility in question or that has been given general public notice by the utility in question; or

(C) Any combination of the above subsections of this definition.

Nothing contained in this term may be construed so as to prohibit any person having a direct legal right or owning any appropriated water right from using water in accordance with the express terms and conditions of any permit to use or with permission from an appropriate State engineer, or pursuant to any order or directive of any Federal water

master having authority in the City or pursuant to any lawful court order or decree.

WASTEWATER: Treated effluent from any sewage treatment plant operated by a governmental entity, or effluent emitted from an individual sewage disposal system approved by a governmental entity.

WATER: Refers to all water, except wastewater, supplied from a utility to any user.

9.05.03: DECLARATION OF WATER SHORTAGE: The Council may declare a water shortage by resolution when it appears to the Council that either insufficient water is available to meet the reasonable needs and requirements of a particular utility, or that there is insufficient potable water for human consumption as determined by the State Health Department.

9.05.04: WATER USE RESTRICTIONS: The Council may, by resolution or ordinance, adopt water use restrictions which are designed to alleviate water shortages or the waste of water occurring in any area served by a utility.

9.05.05: ISSUANCE OF CITATION: A citation must be issued and served whenever any user is found to have engaged in the waste of water.

9.05.06: FORM OF CITATION: The citation must contain the following information:
(A) The location at which the violation occurred;

(B) The date and time of the violation;

(C) The Section of the Fernley Municipal Code which allegedly is being violated;

(D) Information which advises of the manner in which and the time within which the citation should be answered;

(E) Any other reasonable information which is prescribed by the utility; and

(F) The signature of the person who issues the citation.

9.05.07: SERVICE OF THE CITATION: Service of the citation is accomplished by providing a copy of the citation through any of the following procedures:
(A) Personal service of the copy upon the user; or

(B) Personal service of the copy upon a person of suitable age and discretion residing at the user's residence or working for the user at the place where the waste of water initiates; or

(C) Registered mailing of the copy to the user at the user's address as shown on the records of the utility; or

(D) Posting the copy upon the premises where the waste of water initiates.

9.05.08: FILING OF CITATION WITH THE MUNICIPAL COURT: The original citation must be filed with the municipal court with jurisdiction over the area in which the violation occurred. The municipal court shall maintain jurisdiction over the violations pursuant to Nevada Revised Statutes 5.050(1)(a).

9.05.09: VIOLATIONS AND PENALTIES: In addition to termination of utility service by City of Fernley, any person, corporation or other entity found to be in violation of this chapter is subject to the following penalties:

(A) CRIMINAL PENALTIES: Any violation of this chapter shall be a misdemeanor, punishable as provided by section 1.04.01 of this code and by Nevada Revised Statutes for misdemeanors. In addition, the court may order restitution for the cost of wasted water, any damage or loss to the water system and other matters properly relating to the offense.

(B)CIVIL PENALTIES:

(1) First Violation: A fine of twenty five dollars ($25.00).
(2) Second Violation: A fine of fifty dollars ($50.00).
(3) Third Violation: A fine of two hundred fifty dollars ($250.00).
(4) Fourth Violation: A fine of five hundred dollars ($500.00).
(5) Successive Violations: A fine of one thousand dollars ($1,000.00) for each successive violation.

In addition, the court may order restitution for the cost of wasted water, any damage or loss to the water system and other matters properly relating to the offense.

(C) All fines will be paid through the Fernley Municipal Court.

9.05.10: RESPONSIBILITY FOR THE WASTE OF WATER: In any prosecution or litigation concerning a waste of water as set forth in this chapter, the waste of water, together with proof that such waste of water originated at the residence or place of business, shall constitute in evidence a prima facie presumption that the "record owner", as defined by the Lyon County assessor's office, or occupant for the time being of such residence or business location connected to a utility, was responsible for such waste of water.

9.05.11: DISCONTINUATION OF SERVICE: City of Fernley, may discontinue service to any user where the waste of water originates on or from the user's premises. Nothing contained in this chapter shall prevent the City's agent, without notice to any resident or user, from causing water service to the property to be halted to prevent the immediate and substantial waste of water. Service shall be terminated by the utility within ten (10) days after a user is found to have engaged in the waste of water by the municipal court and has either failed to pay the ordered fine or has failed to comply with this chapter.

9.05.12: RESTORATION OF SERVICE: When the cause for termination of service has been corrected to the satisfaction of the utility, or the user has proven to a majority of

the Council that future compliance will be forthcoming from the user, service will be reestablished within a reasonable time.

CHAPTER 6: CROSS-CONNECTION CONTROL

9.06.01: PURPOSE:

(A) Protect the public water supply against actual or potential contamination through cross-connections by isolating sources of contamination that may occur within a water user's premises because of some undiscovered or unauthorized cross-connection on the premises.

(B) Eliminate existing connections between drinking water systems and other sources of water that are not approved as safe and potable for human consumption.

(C) Eliminate cross-connections between drinking water systems and sources of contamination.

(D) Prevent the making of cross-connections in the future.

9.06.02: DEFINITIONS:

AIR-GAP SEPARATION (AG): A physical break between a supply pipe and a receiving vessel. The air-gap shall be at least double the diameter of the supply pipe measured vertically above the top rim of the vessel, but in no case less than one inch (1").

APPROVED BACKFLOW PREVENTION ASSEMBLY: Refers to an assembly that has been manufactured in full conformance with the standards established by the American Waterworks Association (AWWA C506, 'Current Revision' Standards for Reduced Pressure Principle and Double Check Valve Backflow Prevention Devices); and has passed laboratory and field evaluation tests performed by a recognized testing organization which has demonstrated their competency to perform such test to the City of Fernley Public Works Department.

APPROVED WATER SUPPLY: Any water supply whose potability is regulated by a state or local health agency.

AUXILIARY SUPPLY: Any water supply on or available to the premises other than the approved water supply.

AWWA STANDARD: An official standard developed and approved by the American Water Works Association (AWWA).

BACKFLOW: A flow condition, caused by a differential in pressure that causes the flows of water or other liquids, gases, mixtures or substances into the distributing pipes of a potable supply of water from any source or sources other than an approved water supply source. Back siphonage is one cause of backflow. Backpressure is the other cause.

CONTAMINATION: A degradation of the quality of the potable water by any foreign substance which creates a hazard to the public health, or which may impair the

usefulness or quality of the water.

CROSS-CONNECTIONS: As used in this chapter means any unprotected actual or potential connection between a potable water system used to supply water for drinking purposes and any source or system containing unapproved water or substances that is not or cannot be approved as safe, wholesome and potable. By-pass arrangements, jumper connections, removable sections, swivel or changeover assemblies, or other assemblies through which backflow could occur, shall be considered to be cross-connections.

DOUBLE CHECK VALVE ASSEMBLY, (DC): An approved backflow prevention assembly of two (2) internally loaded, independently acting check valves, including resilient seated shut-off valves on each end of the assembly and test cocks for testing the water-tightness of each check valve.

PERSON: Any individual, corporation, company, association, partnership, municipality, public utility, or other public body or institution.

PREMISES: Any and all areas on a water user's property which are served or have the potential to be served by the public water system.

PUBLIC WATER SYSTEM: A system for the provision of piped water to the public for human consumption that has fifteen (15) or more service connections or regularly serves an average of twenty-five (25) individuals daily at least sixty (60) days out of the year.

NON POTABLE WATER: Wastewater, which, as a result of treatment, is suitable for uses other than potable use.

REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION ASSEMBLY (RP): An approved backflow prevention assembly incorporating two (2) internally loaded check valves, including resilient seated shut-off valves on each end of the assembly, and equipped with necessary test cocks for testing the assembly.

SERVICE CONNECTION: The point of connection of a user's piping to the water supplier's facilities.

WATER SUPPLIER: The person who owns or operates an approved water supply system.

WATER USER: Any person obtaining water from an approved water supply system.

9.06.03: CROSS-CONNECTION PROTECTION REQUIREMENTS:

(A) GENERAL PROVISIONS:

(1) Unprotected cross-connections with the public water supply are prohibited. Nevada Administrative Code 445, Section 408 requires the State Health Officer's

written approval to interconnect water supplies.

(2) Whenever backflow protection has been found necessary, the City of Fernley will require the water user to install an approved backflow prevention assembly by and at the user's expense for continued services or before new service will be granted. For new water meter sets, the required backflow assembly shall be installed, inspected, approved and certified test results provided to the City of Fernley Public Works Department within; five (5) days of meter set, unless the Public Works Director or designee approves otherwise. The service will be locked off if inspections and certifications are not completed as specified above. A twenty-five dollar ($25.00) fee will be assessed on the building permit for the installation of the backflow device.

(3) Wherever backflow protection has been found necessary on a water supply line entering a water user's premises, then any and all water supply lines from City of Fernley mains entering such premises, buildings, or structures shall be protected by an approved backflow prevention assembly. The type of assembly to be installed will be in accordance with the requirements of this chapter.

(B) WHERE PROTECTION IS REQUIRED:

(1) Each service connection from the City of Fernley water system for supplying water to premises having an auxiliary water supply shall be protected against backflow of water from the premises into the public water system unless the auxiliary water supply is an approved water supply. NAC 445, Section 408 requires the State Health Officer's written approval to interconnect water supplies.

(2) Each service connection from the City of Fernley water system for supplying water to premises on which any substance is handled in such fashion as may allow its entry into the water system shall be protected against backflow of the water from the premises into the public system. This shall include the handling of processed waters and waters originating from the City of Fernley water system which have been subjected to deterioration of sanitary quality.

(3) Backflow prevention assemblies shall be installed on the service connection to any premises having:

(a) Internal cross-connections that cannot be permanently corrected and controlled to the satisfaction of the City of Fernley or

(b) Intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not cross-connections exist.

(C) TYPE OF PROTECTION REQUIRED:

(1) The type of protection that shall be provided to prevent backflow into the approved water supply shall be commensurate with the degree of hazard that

exists on the water user's premises. The type of protection assembly that shall be required (listing in an increasing level of protection) includes: atmospheric vacuum breaker (AVB), pressure vacuum breaker or spill resistant pressure vacuum breaker (PVB/SVB), double check valve assembly (DC), reduced pressure principle backflow prevention assembly (RP), and an air-gap separation (AG). The water user may choose a higher level of protection than required by the City of Fernley. The minimum types of backflow protection required to protect the approved water supply, at the user's water connection, are given in NAC 445A.6719 through NAC 445A.6721. Situations that are not covered in those sections of the NAC shall be evaluated on a case-by-case basis and the appropriate backflow protection shall be determined by the City of Fernley.

(2) When two (2) or more services supply water from different street mains to the same building, structure, or premises through which an interstreet main flow may occur, shall have at least a DC on each water service to be located adjacent to and on the property side of the respective meters. Such protection shall not be considered adequate if backflow protection is deemed necessary to protect the mains from contamination; in such cases the installation of approved backflow assemblies at such service connections shall be required.

9.06.04: BACKFLOW PREVENTION ASSEMBLIES:

(A) APPROVED BACKFLOW PREVENTION ASSEMBLIES:

(1) Only backflow prevention assemblies which have been approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research shall be acceptable for installation by a water user connected to the City of Fernley's potable water system.

(2) The City of Fernley will provide upon request, to any affected user, a list of approved backflow prevention assemblies.

(B) BACKFLOW PREVENTION ASSEMBLY INSTALLATION: Backflow prevention assemblies shall be installed in a manner prescribed in the City of Fernley Public Works Design Standards. Location of the assemblies shall be as close as practical to the user's service connection. The City of Fernley shall have the final authority in determining the required location of a backflow prevention assembly.

(1) Air-Gap Separation (AG). The air-gap separation shall be located on the user's side of and as close to the service connection as is practical. All piping from the service connection to the receiving vessel shall be above grade and be entirely visible. NO water use shall be provided from any point between the service connection and the air-gap separation. The water inlet piping shall terminate a distance of at least two pipe diameters of the supply inlet, but in no case less than one inch above the overflow rim of the receiving tank.

(2) REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION ASSEMBLY (RP): The approved reduced pressure principle assembly shall be installed on the user's side of and as close to the service connection as is practical. The assembly shall be installed a minimum of twelve inches about grade and not more than thirty-six inches about grade, measured from the bottom of the assembly, and with a minimum of twelve inches side clearance. The assembly

shall be installed so that it is readily accessible for maintenance and testing. Water supplied from any point between the service connection and the RP assembly shall be protected in a manner approved by the City of Fernley.

(3) DOUBLE CHECK VALVE ASSEMBLY (DC): The approved double check valve assembly shall be installed on the user's side of and as close to the service connection as is practical. The DC shall be installed above grade, if possible, and in a manner where it is readily accessible for testing and maintenance. If a double check valve assembly is put below grade it must be installed in a vault such that there is a minimum of twelve inches between the bottom of the vault and the bottom of the assembly, so that the top of the assembly is a maximum of twenty inches below grade and a maximum of thirty inches below grade, so there is a minimum of twenty-four inches of clearance between the side of the assembly with the test cocks an the side of the vault, and so there is a minimum of twelve inches clearance between the other side of the assembly and the side of the vault. Special consideration must be given to double check valve assemblies of the "Y" type. These assemblies must be installed on their "side" of the test cocks in a vertical position so that either check valve may be removed for service without removing the assembly. Vaults that do not have an integrated bottom must be placed on a three-inch layer of gravel.

(4) PRESSURE VACUUM BREAKER ASSEMBLY/SPILL RESISTANT PRESSURE VACUUM BREAKER (PVB/SVB): The approved PVB/SVB shall be installed 12" above the downstream piping and sprinkler heads. The assembly shall not be subject to any backpressure from injection systems, compressed air, pumps, or other means.

(5) ATMOSPHERIC VACUUM BREAKER (AVB): The use of the AVB for service protection is prohibited.

(C) BACKFLOW PREVENTION ASSEMBLY TESTING AND MAINTENANCE:

(1) The owner of any premises on which, or on account of which, backflow prevention assemblies are installed, shall have the assemblies tested by a person who is certified as a Backflow Prevention Assembly Tester by the CA/NV AWWA. Backflow prevention assemblies must be tested at least annually and immediately after installation, relocation or repair. The City of Fernley may require a more frequent testing schedule if it is determined to be necessary. No assembly shall be placed back in service unless it is functioning as required. A report on the City of Fernley supplied form must be filed with the City of Fernley Public Works Department each time an assembly is tested, relocated or repaired. These assemblies shall be serviced, overhauled or replaced, whenever they are found to be defective and all costs of testing, repair, and maintenance shall be borne by the water user.

(2) A successful, operational function test by a tester shall be completed and is due to City of Fernley within seven (7) days after the assembly is installed and water service is set and/or established.

(3) Affected water users can obtain a list of qualified testers from the Nevada Health District. City of Fernley will notify affected customers by mail when periodic testing of an assembly is required and also supply users with the necessary

forms to be filled out each time an assembly is tested or repaired.

(D) BACKFLOW PREVENTION ASSEMBLY REMOVALS:

(1) Approvals must be obtained from the City of Fernley before a backflow prevention assembly is removed, relocated, or replaced.
(2) Removal-The use of an assembly may be discontinued and the assembly removed from service upon presentation of sufficient evidence to the City of Fernley to verify that a hazard no longer exists or is not likely to be created in the future.
(3) Relocation-An assembly may be relocated following confirmation by the City of Fernley that the relocation will continue to provide the required protection and satisfy installation requirements. A retest will be required following the relocation of the assembly.
(4) Repair-An assembly may be removed for repair, provided the water use is either discontinued until repair is completed and the assembly is tested and returned to service, or the service connection is equipped with other backflow protection approved by the City of Fernley. A retest will be required following the repair of the assembly.
(5) Replacement-An assembly may be removed and replaced provided the water use is discontinued until the replacement assembly is installed and tested. All replacement assemblies must be approved by the City of Fernley and must be commensurate with the degree of hazard involved. A retest will be required following the replacement of the assembly.

9.06.05: ADMINISTRATIVE PROCEDURES:

(A) WATER SYSTEM SURVEY:

(1) City of Fernley will review all requests for new service to determine if backflow protection is needed. Plans and specifications must be submitted to the City of Fernley upon request for review of possible cross-connection hazards as a condition of service for new service connections. If it is determined that a backflow prevention assembly is necessary to protect the public water system, the required assembly must be installed before service will be granted.
(2) City of Fernley may require an on-site inspection to evaluate cross-connection hazards. City of Fernley will transmit a written notice requesting an inspection appointment to each affected water user. Any water user who cannot or will not allow an on-premises inspection of the premises piping systems shall be required to install the backflow prevention assembly or air-gap the City of Fernley considers necessary.
(3) City of Fernley may, at its discretion, require a re-inspection for cross-connection hazards of any premises to which it serves water. The City of Fernley will transmit a written notice requesting an inspection appointment to each affected water user. Any water user who cannot or will not allow an on-premises inspection of premises piping systems shall be required to install the backflow prevention assembly or air-gap the City of Fernley considers necessary.

(B) TESTER RESPONSIBILITIES AND TESTING REQUIREMENTS:

(1) The City of Fernley test form shall be used for required backflow prevention assemblies. This form is available in electronic format.
(2) All data on the test form must be legible and complete, otherwise the form will be returned to the tester for completion.
(3) If the water meter number is not provided on the test form, the tester shall provide a copy of the water user's bill and attach it to the test form.
(4) Any tester who conducts tests of backflow prevention assemblies which protect fire service connections shall also be a licensed fire system contractor or work under the direct supervision of a licensed fire system contractor per Nevada State Health.
(5) The City of Fernley retains the right to test a water user's backflow prevention assembly on a random basis as a quality control measure. Advance notice will be given to the user.
(6) The City of Fernley may conduct periodic spot checks of a tester's work using the tester's gauge. Also, the City of Fernley may require that the tester perform the test in the presence of a City of Fernley representative.
(7) The tester shall calibrate, at least annually, all test gauges per NAC 445A.67245. The calibration certification forms must be available at the City of Fernley's request.
(8) Both backflow prevention assemblies on a Detector Check assembly shall be tested. Designate the test for the bypass assembly as such on the test form. Read the bypass meter and record it on the test form.

(C) CUSTOMER NOTIFICATION-ASSEMBLY INSTALLATION:
(1) The City of Fernley will notify the water user of the survey findings, listing the corrective actions to be taken if any are required. A period of sixty days will be given to complete all corrective actions required, including installation and testing of approved backflow prevention assemblies or air-gap, unless a written extension is granted.
(2) A second notice will be sent to each water user who does not take the required corrective actions prescribed in the first notice within the allowed sixty-day period. The second notice will give the water user a two-week period to take the required correction action. If no action is taken within the two-week period, the City of Fernley may terminate water service to the affected water user until the required corrective actions are taken.

(D) CUSTOMER NOTIFICATION-TESTING AND MAINTENANCE:
(1) The City of Fernley will notify each affected water user when it is time for the backflow prevention assembly, installed on their service connection, to be tested, or the air-gap to be inspected. This written notice shall give the water user thirty days to have the assembly tested or air-gap inspected, and supply the water user with the necessary form to be completed and resubmitted to the City of Fernley.
(2) A second notice shall be sent to each water user who does not have the backflow prevention assembly tested or air-gap inspected as prescribed in the first notice within the thirty-day period allowed. The second notice will give the water user a two-week period to have the backflow prevention assembly tested

or the air-gap inspected. If no action is taken within the two week period, the City of Fernley may terminate water service to the affected water user until the subject assembly is tested, or air-gap inspected.

9.06.06: WATER SERVICE TERMINATION:

(A) GENERAL: When the City of Fernley encounters water users that represent a clear and immediate hazard to the water supply that cannot be immediately abated, the City of Fernley shall institute the procedure for discontinuing City of Fernley water service.

(B) BASIS FOR TERMINATION: Conditions or water uses that create a basis for water service termination include, but are not limited to, the following items:

(1) Refusal to install a required backflow prevention assembly or air-gap separation.
(2) Refusal to test a backflow prevention assembly or inspect an air-gap separation.
(3) Refusal to repair a faulty backflow prevention assembly.
(4) Refusal to replace a faulty backflow prevention assembly.
(5) Direct or indirect connection between the public water system and a sewer line.
(6) Unprotected direct or indirect connection between the public water system and a system or equipment containing contamination.
(7) Unprotected direct or indirect connection between the public water system and an auxiliary water system.
(8) A situation that presents an immediate health hazard to the public water system.

(C) WATER SERVICE TERMINATION PROCEDURES:

(1) For conditions defined in 9.06.06(B)(1)-(4) the City of Fernley will terminate service to a customer's premises after two written notices have been sent specifying the corrective action needed and the time period in which it must be done. If no action is taken within the allotted time period water service may be terminated.
(2) For conditions defined in 9.06.06(B)(5)-(8) the City of Fernley will take the following steps:
    (a) Make a reasonable effort to advise the water user of intent to terminate water service;
    (b) Terminate the water supply and lock the service valve. The water service will remain inactive until corrections of violations have been approved by the City of Fernley.

9.06.07: ENFORCEMENT-PENALTIES: The City of Fernley Public Works Director or his/her designee shall have the authority to enforce this ordinance.

It is unlawful for any person, firm, or corporation at any time to make or maintain or cause to be made or maintained, temporarily or permanently, for any period of time whatsoever, any cross-connection between plumbing pipes or water fixtures being served with water by the City of Fernley water system and any other source of water supply or to maintain any sanitary fixture or other appurtenances or fixtures which, by reason of their construction, may cause or allow backflow of water or other substances

into the water supply system of the City of Fernley and/or the service of water pipes or fixtures of any customer of the City of Fernley.

Any violations of the provisions of this ordinance or rules or regulations promulgated thereof, shall be an infraction, punishable by a fine of not less than twenty-five dollars ($25.00), nor more than five thousand dollars ($5,000.00). Each day that a violation exists shall constitute a separate and distinct offense.

9.06.08: SEVERABILITY: If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The Fernley City Council declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases is declared invalid. (ORD 2007-009)

CHAPTER 7: DEDICATION OF WATER RIGHTS AND FACILITIES FOR RESIDENTIAL SUBDIVISION AND PARCEL MAPS, CONSTRUCTION OF NEW HOMES AND COMMERCIAL AND INDUSTRIAL BUILDINGS.

9.07.01: DEDICATION: An applicant shall dedicate to the City of Fernley, as a condition precedent of a final subdivision map, final parcel map or issuance of a building permit:

(A) Any surface or ground-water rights reasonably necessary to insure an adequate water supply to serve all parcels or lots within the project or a building.

(1) For any new residential tentative subdivision or parcel maps approved after the effective date of this ordinance connecting to the City water system, the required water rights shall be dedicated concurrently with the filing of an application for a Will-Serve.

(2) For projects that will be served by domestic wells, the required water rights shall be dedicated prior to the filing of the final map.

(3) For construction of new residences on parcels that were created on or after July 1, 1993 that will be served by domestic wells, the water rights shall be dedicated prior to the submittal of a building permit for the residence. For vacant parcels, which have existing wells, proof of water right dedication shall be submitted with the building permit. Parcels created before July 1, 1993, are exempt pursuant to NRS 534.350. Nothing in this ordinance is intended to supersede the provision of FTO 13.

(4) Commercial and industrial projects shall dedicate water rights for any ERCs (Equivalent Residential Capacity) above 100, prior to the submittal of a building permit. For the purposes of this ordinance, an ERC is the amount of water use estimated for the purposes for a non-residential project, divided by 1.12 acre feet, the water use necessary for a residential unit.

(B) Any facilities for storm drainage, water treatment, supply, storage, transmission and distribution, and any facilities for sewage collection, treatment and disposal, and appurtenances (such as wells, pipelines, pumps and storage tanks) located within or outside of the property, which are reasonably necessary to insure an adequate water supply to the property, adequate sewage disposal for the property, and adequate storm collection and disposal for the property; and

(C) Any easement or legal access reasonably necessary to insure an adequate water supply to the property; and

(D) The amount of required dedicated water right pursuant to this Ordinance is 1.12 acre-feet annually (AFA) (1,000 gallons/day) for each parcel or lot. In the event of a parcel splitting subsequent to the initial parcel map, the applicable water right or fee in-lieu of water rights shall be conveyed for each subsequently created parcel or lot. For each mobile or manufactured home on a lot or space, multi-family unit, condominium, commercial or industrial use, the developer's engineer shall calculate the amount of required water rights based on the number of fixture units as defined by the most current version of the plumbing code adopted by the City, multiplied by

25 gallons per day and 365 days, then converted to acre feet.

(E) Dedication of surface or ground water rights must meet the following conditions:
(1) The applicant must submit proof of the validity of the water right and the complete chain of title establishing ownership. The water right must be in good standing and of sufficient quantity and quality to service the needs of the development. In the case of a certified right, City of Fernley may request proof of use within the preceding five (5) years.
(2) The water right must be legally available for the beneficial use of the proposed development. All costs of transfer of any points of diversion or change in manner and place of use shall be the responsibility of the applicant. All water rights transfers are subject to the State Water Engineer's approval, proof of which must be submitted before acceptance.

9.07.02: USE OF WATER RIGHTS AND FACILITIES: City of Fernley may, by contract or written agreement, permit the use of the dedicated water rights and/or facilities by other governmental entities, public or private utilities, or any other person or entity, including those engaged in providing water, storm drainage or sewer services.

9.07.03: NATURE OF DEDICATION: The dedication of water rights and facilities required herein may be satisfied if the applicant enters into an agreement with the City secured by a performance bond or other undertaking acceptable to the City. The agreement must constitute a binding offer to dedicate, conditioned only upon failure to receive final approval of the application for water service.

9.07.04: FACILITIES STANDARDS: The facilities which are the subject of a dedication agreement must be designed and constructed in accordance with standards and other requirements established by the Public Works Design Standards manual.

9.07.05: APPROVAL OF SERVICE CONDITIONAL: Every "Will-Serve" notification and administrative approval of applications for water service is conditioned upon the acceptance of the dedication or the execution of an agreement conforming to this Ordinance.

9.07.06: PAYMENT IN-LIEU OF DEDICATION OF WATER RIGHTS:
(A) The following may pay a fee in-lieu of dedication of water rights pursuant to the requirements set forth in Paragraph B, below:
(1) Commercial or industrial projects on existing parcels, equal to or less than 100 ERCs.
(2) Subdivision or parcel maps approved on commercially or industrially zoned land. If the zoning is changed from commercial or industrial to residential after the approval of a tentative map or after the recordation of a final map, the required water rights shall be dedicated prior to the submittal of a building permit.
(3) New residences on existing parcels served or connecting to the City water system.
(4) Existing residences connecting to the City water system.
(5) Final subdivision and parcel maps or tentative subdivision and parcel maps

approved prior to the effective date of this ordinance.

(B) Standards for payment of in-lieu fee of dedication of water rights:

(1) If a property, on which the project listed in Paragraph A, above, has water rights, the required water rights shall be dedicated to the City. In the event an applicant is unable to convey sufficient water rights because there are insufficient water rights on the subject property for the project, a fee may be paid in-lieu of dedication of the unavailable water right or the applicant may acquire and dedicate an equivalent replacement water right.

(2) The burden of proof is on the applicant to show the lack of sufficient appurtenant water rights and/or the history of the transfer or unavailability of any appurtenant water rights. Any costs incurred by the City in determining the applicant's eligibility to pay a fee in-lieu of dedication shall be the responsibility of the applicant.

(3) In the event that a fee in-lieu of dedication of water rights is allowed as herein provided, said fee shall be the market rate for water rights in the Fernley area, as determined by a competent water rights appraisal, and said price may be amended by resolution of the Council and include a ten per cent (10%) administrative fee based upon the determined rate. (ORD 2008-011)

9.07.07: LIST OF QUALIFIED APPRAISERS:

(A) Purpose: The purpose of this provision is to meet the minimum requirements set forth by the legislative mandate of Assembly Bill No. 312, as amended by Senate Bill No. 394 of the 73rd Session of the Nevada Legislature, and as further amended by Assembly Bill No. 462 of the 74th Session of the Nevada Legislature. To comply with that legislative mandate, Council adopts an ordinance establishing the procedures for creating and amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the City. (ORD 2009-09)

(1) This provision applies when the City is offering real property for sale or lease except as otherwise provided by state law including but not limited to those exceptions contained NRS 268.059.

(2) This provision does not create a legal right, including but not limited to a property or other constitutional right, to be placed upon the established appraisal lists or to be awarded a contract for professional services.

(B)Procedure:

(1) The director shall obtain from the Nevada Real Estate Division a list of all general appraisers qualified to act as a general appraiser in Lyon County.

(2) The director shall send a request for qualification to each appraiser on the list to determine if the appraiser is interested in performing appraisals for the City under terms and conditions stated therein, and what types of appraisals the appraiser is qualified to perform based on training and experience. An appraiser who fails to respond to the request for qualifications to the satisfaction of the director shall not be placed on the list.

(3) From the responses to the requests for qualifications, the director shall prepare the following five lists:

(A) Residential appraisers;

(B) General Commercial and/or industrial appraisers;
(C) Ranches appraisers;
(D) Open space appraisers; and
(E) Water rights appraisers.

(4) The names on the five lists set forth in paragraph C must be organized in a random order in a fashion determined by the director.

(5) To create the five lists set forth in paragraph C, the following standards shall be used to determine minimum qualifications:

(A) The appraiser must possess all necessary licenses;

(B) The appraiser must not have violated professional appraiser standards or statutory requirements in the performance of appraisals or cannot have been disciplined or fined by any state or federal agency for conduct that relates to the ability of the appraiser to perform the work to be required by the City;

(C) The appraiser must have the ability to obtain and maintain insurance coverage as required by the City;

(D) The appraiser must have the professional qualifications and experience for the specific appraisal required by the City;

(E) During the 5 years immediately preceding the date of the appointment by the City, the appraiser cannot have filed as a debtor in a business capacity under the provisions of the United States Bankruptcy Code or breached any contract with a public agency or person in this state or any other state;

(F) The appraiser's application must be truthful and complete; and

(G) The appraiser must execute the application form and consent to and have the ability to satisfy all terms and conditions contained in any proposed contract for appraisal services presented by the City.

(6) Appraisers on the lists shall keep the director informed of any change in the status of standards listed above in E(1) through E(7). The change in the appraiser's status or failure to maintain the minimum qualifications is cause for immediate removal from the list by the director. The director shall provide written notice to any appraiser of his or her removal.

(7) The names of appraisers who are organized in a firm of appraisers may be placed on the list independently if each is independently qualified. No two appraisers from the same firm can be selected to appraise the same real property. An appraiser who cannot be selected because of an appraisal firm relationship retains his or her place on the list for the next appraisal required by the City.

(8) From time to time the director shall obtain a new list from the State Real Estate Division and follow the procedures of this ordinance to assemble a new list. An appraiser whose name is stricken from the list as required by Sections 3(B) or 3(F) may be added to the new list if properly qualified and responsive.

(C) Appraiser Selection Process:

(1) When an appraisal is required for the sale or lease of real property owned by the City, the director shall send a request for proposal to the appraiser whose name

is next on the list for the type of property appraisal required, and who has not been hired by the City for an appraisal since the last time the list was assembled or reordered.

(2) The request for proposal shall identify:
   (A) The property to be appraised;
   (B) The desired terms and conditions of appraisal; and
   (C) The requirements for the response to the request for proposal.

(3) The response from the appraiser must include:
   (A) A statement of specific qualifications to do the type of appraisal required;
   (B) A proposal complying with the terms and conditions of the request;
   (C) The names of other appraisers in the appraiser's firm, if any;
   (D) A statement that the appraiser is not related within the first degree of consanguinity or affinity to any person who has an interest in the real property or an adjoining property; and
   (E) A disclosure statement which includes, without limitation:
      (1) All sources of income that may constitute a conflict of interest;
      (2) Any prior appraisal by the appraiser of the subject property; and
      (3) Any relationship of the appraiser with the City, the owner of the subject property or the owners of any adjoining property to the one being appraised.

(4) If an appraiser responds to the request in terms that are responsive and satisfactory to the director, the appraiser's proposal shall be presented to the Council which shall verify the qualifications of the appraiser. The determination of the Council as to qualifications is conclusive. An appraiser's name shall be stricken from the list for the type of appraisal requested if the appraiser does not satisfactorily respond to the request as determined by the director or if the Council declines to verify the appraiser's qualifications.

(5) The director shall use the list and repeat the selection procedures until the Council approves an appraiser. To expedite the selection process, the director may send a request for proposal to more than one appraiser on the list. Those appraisers who respond but are not selected shall retain their places on the list. The director may also send the names of more than one appraiser to the Council, but shall report to the Council the order of the appraisers on the list.

CHAPTER 8 WASTEWATER RULES AND REGULATIONS

9.08.01: GENERAL PROVISIONS:

(A) SHORT TITLE: This article shall be known and may be cited as the “City of Fernley Wastewater Rules and Regulations”.

(B) AUTHORITY: The following rules and regulations apply to wastewater service supplied by the City of Fernley Public Works Department to its customers and have been approved by the City of Fernley, a political subdivision of the State of Nevada, through its governing body, the Fernley City Council. By law, the City is not permitted to supply service to any customer who does not comply with all provisions of the rules and regulations, and no officer, inspector, agent or employee of the City of Fernley has any authority to waive, alter or amend in any respect these rules and regulations, or any part thereof, unless otherwise authorized herein.

(C) WASTEWATER SYSTEM: The goal of the City of Fernley is to develop a comprehensive, integrated wastewater system to serve the residents within the City of Fernley. To this end, the Public Works Department will review every development within the City of Fernley Wastewater Boundary to evaluate, conjunctive with the developer, the feasibility of integrating the development, presently or in the future, with the system, plant, works and undertaking used in obtaining and disposing of wastewater for public and private uses, including all parts of the wastewater system, all appurtenances to it, and lands, easements, rights in land, water rights, contract rights, franchises, and other wastewater storage and collections systems and equipment. The Public Works Department has the right to accept or not accept any wastewater system. Any property with or without a septic system when within the Wastewater Boundary may be required to connect to the City’s municipal wastewater system if reasonably accessible. The City has the right to refuse service to any customer in the event the Public Works Department deems that the customer or applicant would create conditions that in the opinion of the Public Works Department could affect the treatment of the collected wastewater.

(D) MAINTENANCE OF WASTEWATER FACILITIES AND INTERRUPTION OF SERVICE FOR EMERGENCY REPAIRS: The City of Fernley shall not accept any responsibility for any interruption of service to accomplish emergency repairs or should a condition within the system become evident that would prohibit safe operation of the system.

(E) TAMPERING WITH CITY PROPERTY: No one except an employee or representative of the Public Works Department shall at any time operate and/or provide maintenance to any portions of the City’s wastewater system. Unless greater penalty is provided in the Nevada Revised Statutes, tampering with the City’s wastewater system shall be guilty of a misdemeanor.

(F) EXCAVATIONS: Any person or entity wishing to excavate within the City of Fernley Wastewater Boundary must obtain line location information at least 48 hours before

commencing any work. The Public Works Department will only be liable for any requested line locates that are marked in the field by the Public Works Department that exceed two feet on any side of the outside diameter of a wastewater line or buried appurtenance.

Any persons or entity wishing to excavate within the City of Fernley right-of-way (ROW) must obtain a City of Fernley Encroachment/Excavation permit prior to commencement of any work.

(G) BONDING: All wastewater projects installed by developers are required to be bonded before the project begins to insure completion. The owner shall post a 110% surety bond, cash or other approved security with the City to guarantee the satisfactory completion of any improvements to the City's wastewater system.

(H) PENALTY FOR VIOLATION: In addition to any other provision of these regulations, failure of the customer to comply with any regulations of the City of Fernley will result in the customer's water and sewer service being discontinued. Water and sewer service shall not be restored to such a customer until he/she has paid the reconnection fee and has complied with these Rules and Regulations, as well as the City of Fernley Sewer Rate/Fee Schedule.

9.08.02: DEFINITIONS:
APPLICANT: The person, firm, association, corporation or government agency applying for wastewater service.

AVAILABILITY: The property abutting upon The City's sewer system and which can be directly connected for the discharge of sewage herein.

BOD (Biochemical Oxygen Demand): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° C, expressed in milligrams per liter.

BOUNDARIES: The City of Fernley Wastewater Boundary, defined in Fernley City Ordinance #7.

BUILDING DRAIN: That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning two (2) feet outside the inner face of the building wall.

BUILDING SEWER: The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER: A sewer receiving both surface runoff and sewage.

CONNECTION: The pipe and appurtenant facilities, such as property line clean outs,

used to extend wastewater service from a main to premises.

CONNECTION FEE: A fee paid to receive wastewater service from the City of Fernley.

COSTS: The cost of labor, material, transportation, supervision, engineering, field-testing, administration and all other related expenses.

COUNCIL: The City of Fernley City Council, governing body of the City of Fernley, State of Nevada.

DELINQUENT ACCOUNT: Any account with a balance remaining unpaid following the due date (20th of the month).

DIRECTOR: The Director of the City of Fernley Public Works Department.

GARBAGE: Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

INDUSTRIAL WASTES: The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

NATURAL OUTLET: Any outlet into a water source, pond, ditch, lake, or other body of surface or groundwater.

OWNER: The person in whose name the legal title to the property appears, by deed duly recorded in the Lyon County recorder's office, or the person in possession of the property or buildings under claim of, or exercising acts of ownership over same for himself, or as executor, guardian or trustee of the owner.

PERSON: An individual or a company, association, co-partnership or public or private corporation, governmental agency, or other organization operating as a single business entity.

PREMISES: A lot or parcel of real property under one ownership.

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half (1/2) inch in any dimension.

PH: The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PUBLIC SEWER: A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

PUBLIC WORKS DEPARTMENT: City of Fernley Public Works Department.

RATE/FEE SCHEDULE: The rates, charges and fees for wastewater service as established by resolution(s) or ordinance(s) of the City Council.

SANITARY SEWER: A sewer, which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEWAGE: A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

SEWAGE TREATMENT PLANT: Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS: All facilities for collecting, pumping, treating and disposing of sewage.

SEWER: A pipe or conduit for carrying sewage.

SHALL: "Shall" is mandatory; “May" is permissive.

SLUG: Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.

STORM DRAIN (Storm Sewer): A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, and other unpolluted cooling water.

SUSPENDED SOLIDS: Solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by laboratory filtering.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently.

9.08.03: USE OF PUBLIC SEWERS REQUIRED:

(A) CONNECTION REQUIREMENTS: The owners of inhabited property within the City of Fernley Wastewater Boundary shall connect their property with the City’s sewer system, and upon failure to connect within sixty (60) days after written notice by the City, resulting from City Council action, the City may cause such connection to be made and a lien to be filed against the property for the expense incurred in making such connection. No owner, however, shall be compelled to connect his property with such system unless a service line is brought, by the City, which passes through the property, is in physical contact with the property line, or is located adjacent to the

property in a street or right-of-way that abuts the property line.

(B) SEWAGE ALTERNATIVES PROHIBITED: Except as otherwise provided in Chapter 9.08.04, the construction or maintenance within the City of Fernley Wastewater Boundary of any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage is prohibited.

9.08.04: PRIVATE SEWAGE DISPOSAL:

(A) PRIVATE SEWER ACCEPTABILITY: Where a public sanitary sewer within the City of Fernley Wastewater Boundary is not available or for other good cause shown, the building sewer shall be connected to a private sewage disposal system in compliance with the laws of the State of Nevada and the regulations of the Nevada Division of Environmental Protection of the State of Nevada.

(B) PUBLIC SEWER AVAILABILITY: When a public sewer becomes available to a property served by a private sewage disposal system as provided in this Chapter, a direct connection shall be made to the public sewer in compliance with Chapter 9.08.03, and any septic tanks, cesspools and similar private sewage disposal facilities shall be removed and disposed of or abandoned and filled with suitable material to the satisfaction of the City of Fernley and the State of Nevada.

9.08.05: BUILDING SEWERS AND CONNECTIONS:

(A) CONNECTION APPROVAL: No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

(B) SEWER CONNECTION APPLICATION: An owner desiring to make a connection to a public sewer shall make a request for will-serve and wastewater connection on a form furnished by the City of Fernley. The permit application shall be supplemented by any plans, specification or other information considered pertinent in the judgment of the Public Works Department. The connection charge shall be paid by the applicant to the City prior to his obtaining a building permit and before the connection permit is issued.

(C) RESPONSIBILITY OF COSTS: All cost and expenses in relation to the installation and connection of the building sewer, including inspection and engineering costs, shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(D) SEPARATE BUILDING SEWER CONNECTIONS: Except as otherwise provided, a separate and independent building sewer connection shall be provided for every building. Where a building stands at the rear of another on an interior lot and public sewer is not available or can be constructed to the rear building through an adjoining alley, court, yard or extended to the rear building then the separate buildings sewer can be considered as one building sewer.

(E) OLD BUILDING SEWERS: Old building sewers may be used in connection with a new building only when they are found, examined and tested by the owner, to the satisfaction of the Public Works Department, and found to meet all requirements of these regulations.

(F) SEWER CONSTRUCTION CODE REQUIREMENTS: The size, slope, alignment and materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the most current edition of the applicable regulations, such as the City of Fernley Public Works Design Standards, Uniform Plumbing Code, and regulations of the State of Nevada.

(G) BUILDING CONNECTION LOCATION: Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which the building drains are too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drains shall be lifted by an approved means and discharged to the building sewer.

(H) CONNECTIONS WITH SURFACE OR GROUNDWATER: No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn is connected directly, or indirectly, to a public sanitary sewer.

(I) SEWER CONNECTION CODE REQUIREMENTS: The connection of the building sewer into the public sewer shall conform to the requirements of the City of Fernley Public Works Design Standards, current edition of Uniform Plumbing Code and/or applicable regulations of the State of Nevada. Any deviation from the prescribed procedure and materials must be approved by the Public Works Department before installation.

(J) SEWER CONNECTION SUPERVISION: The applicant for the building sewer permit shall notify the Public Works Department when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of a Public Works Department representative.

(K) CONSTRUCTION SAFETY: All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

(L) SEWER LATERAL OWNERSHIP: The owner shall own and be responsible for the sewer lateral from the owner's building to the property line. The City shall own and be responsible for the sewer lateral within the City's Right-of-Way (ROW). There shall be a sewer clean-out installed on the sewer lateral at the property line to allow the City to properly maintain the City-owned portion of the sewer lateral.

There will be no charge for the owner to consult the City if a performance deficiency is identified in the City's portion of the lateral. If, however, the deficiency is identified within the owner's portion of the lateral, the owner will be charged for a service call pursuant to the City of Fernley Sewer Rate/Fee Schedule.

9.08.06: GENERAL USE REGULATIONS:

(A) DISCHARGING INTO SEWERS: No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, contaminated cooling water, swimming pool water or polluted industrial process waters to any sanitary sewer.

(B) SEWER OBSTRUCTIONS: No person shall construct or place, or cause to be constructed or placed, any structure over any public sewer or within five (5) feet of any public sewer.

(C) STORM SEWER: Stormwater and all other non-polluted drainage shall be discharged to such sewers as are specially designated as storm sewers, or to a natural outlet.

(D) DISCHARGE CONTAMINANTS PROHIBITED: No person shall discharge or cause to be discharged the following described substances, materials, water or wastes if it appears likely in the opinion of the Public Works Department that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance. The substances prohibited are:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the City's system or to the operation of the City's system. At no time shall two successive readings on an explosion hazard meter at the point of discharge be more than five percent nor shall any single reading be over ten percent of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, and hydrides.

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases, either singly or by interaction with other wastes, to injure or interfere with any animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of 2 mg/l, pesticides and herbicides.

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works. Any waters or wastes having a pH in excess of 9.5.

(4) Solid or viscous substances in quantities or of such size capable of causing

obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, either whole or ground by garbage grinders.

(5) Any liquid or vapor having a temperature higher than 150 degrees F in the collection system or 104 degrees F at the treatment plant.

(6) Any water or waste containing fats, wax, grease or oils, whether emulsified or excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees F.

(7) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the Public Works Department.

(8) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(9) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City for such materials.

(10) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite sewage, to meet the requirements of the local, state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(11) Any radioactive, radiological, chemical or biological warfare agent waste or material except as regulated by the State or Federal government.

(12) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(d) Unusual volume of flow or concentration of wastes constituting slugs.

(13) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(14) Any discharge of geothermal water, that being water heated naturally by the earth and all dissolved or entrained minerals contained therein, from any commercial, industrial, or residential source.

In forming an opinion as to the acceptability of these wastes, the Public Works Department will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment, plant, or other pertinent factors.

(E) PUBLIC WORKS DEPARTMENT REQUIREMENTS: If any water or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Chapter 9.08.06.D, and which in the judgment of the Public Works Department may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise creates a hazard to life or constitute a public nuisance, the Public Works Department may:

(1) Reject the wastes;
(2) Require pretreatment to an acceptable condition for discharge to the public sewer;
(3) Require control over the quantities and rates of discharge; or
(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing sewer charges.

If the Public Works Department permits the pretreatment and/or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Public Works Department, and subject to the requirements of all applicable codes, ordinances and laws. The Public Works Director shall make all such discretionary determinations as may be required to administer this chapter, and shall recover the costs, incurred in making such a determination, from the discharger.

(F) GREASE, OIL, and SAND SEPARATORS: Grease, oil and sand separators shall be provided when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type and capacity specified in the most current edition of the Uniform Plumbing Code (IPC), and shall be located so as to be readily and easily accessible for cleaning and inspection.

(G) PRELIMINARY TREATMENT: Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, the owner at his expense shall maintain them continuously in satisfactory and effective operation.

(H) METERING: When required by the Public Works Department, the owner of any property serviced by a building sewer carrying commercial/industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such a manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by

the Public Works Department. The manhole shall be installed by the owner without expense to the City, and shall be maintained by the owner in a safe and accessible condition at all times.

(I) WASTEWATER TESTING: All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in these regulations shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property shall carry out sampling.

(J) SPECIAL CONSIDERATIONS: Nothing contained in this chapter shall be construed as preventing any special agreement or arrangement between the City and any commercial/industrial concern whereby any commercial/industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, by the commercial/industrial concern.

9.08.07: POWERS OF AUTHORITY: Authorized employees of the City of Fernley bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspecting, observations, measurement, sampling and testing in accordance with the provisions of these regulations.

9.08.08: DEPOSITS:

(A) CREDIT ESTABLISHMENT AND MAINTENANCE: Each applicant for service shall establish and maintain credit to the satisfaction of the City by a guarantee deposit before service will be rendered.

(B) GUARANTEE DEPOSIT: The deposit required for wastewater service pursuant to the existing Rate/Fee Schedule will be paid for with cash, check, money order or accepted credit/debit card. If a payment transaction is returned by the bank, service will be immediately terminated and, a non-sufficient funds charge shall be paid by the customer along with a mandatory cash deposit before service will be restored.

(C) DEPOSIT REESTABLISHMENT: Any amount due for wastewater service that remains unpaid for 45 days after presentation of a bill may be deducted from the guarantee deposit, and service shall be subject to discontinuance until the deposit is restored. Any customer who receives two 45-day delinquency notices in a one-year period shall be required to pay a new guarantee deposit, or update the deposit to the current rate.

(D) RETURN OF GUARANTEE DEPOSIT-PROPERTY OWNER: A guarantee deposit on an account which has not been in arrears at any time during a 12-month period

will be applied to the account. If the service is terminated, the deposit will be returned after all outstanding bills for wastewater service have been paid. Any deposit uncalled for within five years from the date when made will become the property of and be retained by the City. Interest is not credited or payable on deposits.

(E) RETURN OF GUARANTEE DEPOSIT-RENTER: Deposits made by a renter shall be refunded only on termination of service. Interest is not credited or payable on deposits.

9.08.09: BILLING:

(A) BILLING PERIOD: The regular billing period shall be monthly, in arrears, with bills generally sent between the 1st and the 5th of the month.

(B) PARTIAL BILLING PERIOD: Service for less than the normal billing period shall be billed at a prorated rate.

(C) CHARGES: All charges and fees shall be those identified in the most current version of the City of Fernley Sewer Rate/Fee Schedule.

(D) CONNECTION FEE: For every connection made within the system there shall be charged an initial payment in the form of a connection fee in accordance with the following schedule:

The Wastewater Connection Fee shall be paid according to the most current version of the Rate/Fee Schedule. The Connection Fee shall be a one time fee and shall be paid before the customer receives service. The fees are non-refundable and non-transferable.

The Wastewater Connection Fee is based on Equivalent Residential Capacity (ERC) units. One ERC is equal to one single family residential unit or 345 gallons of discharged wastewater per day. The Wastewater Connection Fee is calculated by taking the wastewater flow per day and dividing it by 345 gallons per day and multiplying by the current ERC based Connection Fee. Exception: Three hotel/motel units shall be equivalent to one ERC. The applicant must provide the City of Fernley with expected discharge volume information certified by a registered civil engineer in the State of Nevada along with an approved stamped set of drawings.

(E) PAYMENT: Sewer Charges are billed in arrears and are due and payable at the office of the City of Fernley on or before the 20th day of the month. Any account balance not paid by the 20th of the month is delinquent.

(F) PENALTY ON UNPAID BALANCE: Rates and charges, which are not paid on or before the next regular billing date are subject to a late penalty in accordance with the Rate/Fee Schedule.

(G) ADMINISTRATIVE CHARGES: The City may establish, with the City Council's approval, reasonable charges for late fees, bank charges for returned checks, service reestablishment charges and other administrative charges pursuant to the Rate/Fee Schedule.

(H) SERVICE DISCONTINUANCE: If a delinquent bill is not paid on the 20th of the month following the due date, service will be discontinued. Discontinuance and reconnection costs shall be borne by the property owner before service is resumed. The City shall send notice to customers with delinquent accounts at least 10 calendar days prior to the planned discontinuance date. Should any customer fail or refuse to make payment for properly billed service, the service shall be discontinued. Delinquent balances constitute a lien on the property.

(I) DELINQUENT ACCOUNTS: No application for sewer service shall be accepted from any former customer owing any delinquent balance until the delinquent account is paid in full together with any applicable reconnection charges. A deposit will be required to insure future payments, but the deposit shall not exceed three months' estimated billing.

(J) RENTALS: Property owners shall be responsible for sewer bills for rental properties if the renter fails to pay the bills. Sewer service is subject to discontinuance per Section 9.08.09(H) above. Delinquent balances constitute a lien on the property

9.08.10: REIMBURSEMENTS FOR MAIN EXTENSIONS AND NEW FACILITIES:

(A) AGREEMENTS: The City, developers, customers and/or other parties may enter into agreement for the reimbursement or repayment of the costs of construction of main extensions or other improvements to the City's sewer system, subject to the requirements of this chapter:

(1) To the City, if the City provides the construction of the project, from the customers along the new line.

(2) To the developer or other party who provides the construction of the project, from customers along the new line for reimbursement of the project costs. Such reimbursements shall not become general obligations of the City.

(B) REIMBURSABLE COSTS: The reimbursable costs may include the actual costs of construction of the main extension and/or other new facilities, including oversizing; related design, planning, engineering, inspection fees, and testing fees, and the City's administration and overhead costs incurred.

(C) REIMBURSEMENT AMOUNTS: To determine reimbursement amounts for new customers, the following information must first be determined: flow contribution for individual lots, total flow contribution for entire reimbursement area and total cost of construction.

(1) Flow Contribution for Individual Lots: For residential zoning districts, it is necessary to determine the maximum dwelling units for individual lots by dividing

the gross acreage by the minimum permissible lot size and rounding up to the nearest whole number (for 1 acre gross size in an NR-1 zoning district [6,000 sf minimum lot size], from the 2003 City of Fernley Development Code; 43,560 square feet divided by 6,000 square feet = 7.26 dwelling units or 8 dwelling units after rounding). The rounded maximum dwelling unit count is then multiplied by 200 gallons per day to obtain the individual lot's flow contribution (continued from above, 8 dwelling units multiplied by 200 gallons per day per dwelling unit = 1,600 gallons per day). For all non-residential zoning districts, it is necessary to only determine the gross acreage and multiply by 400 gallons per day per acre (1 acre gross size in a C-2 zoning district, from the 2003 City of Fernley Development Code = 1 acre multiplied by 400 gallons per day per acre = 400 gallons per day).

(2) Total Flow Contribution for Entire Reimbursement Area: The total flow contribution for the entire reimbursement area will be calculated by totaling the flow contributions for all individual lots that can use the extension or facility for their primary sewer source.

(3) Total Cost of Construction: The total cost of construction of the main extension or new facility will be determined by actual cost of construction plus related costs as indicated in Chapter 9.08.10.B as approved by the Public Works Director.

(4) New Customer Reimbursement: The amount to be reimbursed by each new customer who utilizes the main extension or other new facilities will be determined by dividing the flow contribution from the individual customer's lot or parcel by the total flow contribution of all the lots or parcels included in the area, then multiplying the total cost of the project by that same fraction or percentage.

(D) TIME OF PAYMENT: The reimbursement amount shall be due and payable at the time of connection of the property to the main extension or other new line or facility, or at such other times as may be approved by the City by written agreement. The reimbursement amount must be paid or the written agreement executed before water or sewer service is provided to the property.

(E) EASEMENTS AND RIGHT-OF-WAYS: The provider of the new line or facility must obtain legal easements for the City for the new line or any portion thereof which would not be located in an existing easement or right-of-way.

(F) OVER-SIZING: In the event the main extension or new line is required to be larger in diameter than the developer would need because of the number of additional customers to be served, the costs of material for over-sizing of the main extension or construction of extra facilities shall be included in the reimbursable costs. The over-sizing costs shall consist of the difference between the materials price of the larger pipe or other materials and the price of the pipe that would be sufficient if the line were only to service that property alone.

(G) TIME LIMIT FOR REIMBURSEMENT: All reimbursement agreements shall be limited to 10 years, or such a period as may be required by the City.

(H) CONSTRUCTION OF PROJECT: The City shall decide whether to construct the project or to allow the developer or other party to build the project. No construction may begin before execution of the written reimbursement agreement.

(I) BIDDING REQUIREMENTS: If the City provides construction, the bidding laws and requirements applicable to the City shall be used. A developer doing infrastructure improvements under the reimbursement agreement process must obtain a minimum of two bids, acceptable to the City, and shall utilize the lowest bid.

(J) AGREEMENT BINDING ON SUCCESSORS: Reimbursement agreements shall be binding on the heirs and successors in interest of the parties to the reimbursement agreement.

(K) MODIFICATIONS OF AGREEMENTS: Reimbursement agreements may be altered, modified or amended only in writing, with City Council approval.

9.08.11: DISCONTINUANCE OF SERVICE:

(A) VIOLATIONS: Any person found to be violating any provision of these regulations shall be notified by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(B) FAILURE TO COMPLY: Should a customer fail or refuse to comply with any of the provisions of these regulations or to pay any charges assessed pursuant to these regulations and the established schedule of rates, the City reserves the right to discontinue service.

(C) FAILURE TO DISCOVER VIOLATIONS: Failure of the City to discover violations or to take action to enforce any regulation shall not constitute a forfeiture or waiver of its right to take appropriate action at any time.

(D) LIABILITY: Failure to receive a billing statement or discontinuance of service does not relieve customer of liability. Any amount due shall be deemed a debt to the City, and any person, firm or corporation failing, neglecting or refusing to pay said indebtedness shall be liable to an action by the City in any court of competent jurisdiction for the amount thereof. Furthermore, any indebtedness incurred in relation to this title shall constitute a lien upon the property to which the service is rendered.

(E) RECONNECTION CHARGE: A reconnection charge plus penalties will be made and collected prior to renewing service following discontinuance as reflected in the Rate/Fee Schedule.

(F) UNSAFE CONDITION: If any unsafe or hazardous condition is found to exist on the customer’s premises the service may be shut off without notice. The City will notify

the customer immediately of the reasons for the discontinuance and the corrective action to be taken by the customer before service can be restored.

(G) IMPROPER/ILLEGAL SERVICE: If the City identifies a customer improperly or illegally connected to or having altered a wastewater service, service to that customer may be discontinued without notice. Service will not be restored until the customer has complied with all rules and requirements of the City of Fernley and the City has been reimbursed for the full amount of the service rendered and the actual cost to the City incurred by reason of the improper or illegal use, including court costs and legal fees.

9.08.12: APPEAL:
DECISIONS OF PUBLIC WORKS DIRECTOR FINAL: All decisions of the Public Works Director shall be final unless appealed in writing to the City of Fernley City Council within ten (10) business days. In such appeals, the decision of the City Council shall be final.

CHAPTER 9: CEMETERY

9.09.01: DEFINITIONS:
As used in this Chapter, unless the context otherwise requires, the following definitions apply:

CEMETERY: a burial park for earth interments.

INTERMENT: the permanent disposition of the remains of a deceased person into the earth.

BURIAL SPACE, GRAVE SITE OR PLOT: a single space, approximately 5 x 10 feet, within the cemetery and designed for the interment of one body.

CHILDREN'S PLOT: a single space, approximately 5 feet x 5 feet, within the cemetery and designed for the interment of one body under the length of 3 feet.

CREMATION PLOT: a single space, approximately 2'6" x 2'6", within the cemetery and designed for the placement of cremated remains.

MEMORIAL OR MARKER: a monument, tablet or headstone for the family or individual use.

ADMINISTRATOR OF THE CEMETERY: The Public Works Director shall be the administrator of the cemetery and will be referred to in this document as the Administrator.

RESPONSIBLE PARTY: Individual who signs the burial agreement.

9.09.02 OWNERSHIP AND MANAGEMENT:
(A) The City of Fernley owns the Fernley Desert Garden Cemetery.

(B) The Fernley Garden Cemetery is administered by the City of Fernley City Council, with day to day operations overseen by Administrator.

(C) Within the confines of the Cemetery Grounds, the Administrator shall have complete control of all activities within the confines of the cemetery grounds.

(D) Maintenance of the cemetery is the responsibility of the City of Fernley; however maintenance of plots and grave markers are the responsibility of the parties as assigned in the burial agreement.
   (1) The City Council shall fix the following by resolution:
   (2) Value (sale price) of unsold lots;
   (3) Interment Fee;
   (4) Fee for opening and closing of grave;
   (5) Monument setting fee;

(6) Disinterment Fee;
(7) Other fees and charges as may be required

9.09.03 DUTIES OF THE ADMINISTRATOR:

(A) ADMINISTRATOR: Duties of the administrator of the municipal cemetery are as follows:
  (1) Development: The administrator is responsible for the development of the municipal cemetery expansion plans for inclusion in the annual budget of the City;
  (2) Records Maintenance: The administrator is responsible for the maintenance of the administrative records of the cemetery, to include:
    (a) Lot records of each deceased interred;
    (b) Lot records of each reserved lot;
    (c) Mailing of invoices for quarterly payment for reserved lots purchased on an installment basis;
    (d) Issue cemetery lot deeds on final payment of lots;
    (e) Update the cemetery map semiannually
  (3) Operation and maintenance: The administrator is responsible for the operation and maintenance of the cemetery.

9.09.04 INTERMENTS:

(A) All interments must be in accordance with Federal, State, and County laws and must be pre-arranged, during normal business hours, and approved by the City of Fernley.

(B) All arrangement for opening and closing of gravesites are to be made through a licensed funeral director.

(C) Request for Interments: Requests shall be made through the City of Fernley.

(D) Notice of Interment required: Forty-eight (48) hour notice must be given for any internments.

(E) Holiday Interment: No interment will be allowed on Sunday, legal holidays, or on the day upon which any holiday is legally observed, except by the approval of the Administrator. Any and all exceptions must be approved in writing by City of Fernley.

(F) Emergency Burials: Arrangements for emergency burials must be approved by the Administrator and proof of emergency must be furnished within five (5) days.

(G) All requests must be made in writing.

(H) Location of Interment Space: The written request for interment site may request an exact location of the lot in the cemetery for the grave to be opened. All graves shall be opened within the specified fixed five (5) by ten (10) foot space allotted for each single burial and shall be approximately six (6) feet deep. When the instructions

regarding the location of an interment space cannot be obtained, or is indefinite, or when for any reason the burial space cannot be opened exactly where requested, the City of Fernley may, at its discretion, open it in such location as they deem best and proper, so as not to delay the funeral. The City shall not be liable for damages in any action taken.

(I) There may be one burial and one cremation, or four cremations placed in each 5'x10' plot.

9.09.05 CREMAINS:

(A) Interment of Cremains: any casket, urn, or suitable container containing the cremated remains of any person may be interred following the same general procedures as for the burial of a body.

(B) Cremains Burial Space: The minimum Cremains site shall be 2'6" x 2'6", the depth shall not be less than two (2) feet.

(C) Scattering Ashes: Ashes may be scattered once the request is approved by the City of Fernley. Scattered ashes must be less than a 1/8" in size. (NRS 451.700)

(D) Burial in Existing Grave: Burial of cremains is permitted within an existing grave upon approval of the City of Fernley.

9.09.06 GENERAL SUPERVISION OF THE CEMETERIES:

(A) Admission to the Cemetery: Entrance into the cemetery except through the main entrance is strictly forbidden. The City reserves the right to refuse admission to the cemetery to any persons who are deemed objectionable to the best interest of the cemetery.

(B) Conduct of Persons within the Cemetery: Visitors are welcome on the cemetery ground at any time. Children under fifteen (15) years of age shall not be permitted within the cemeteries unless accompanied by an adult.

(C) The City of Fernley in Charge of all Funerals: All funerals, upon reaching the cemetery, shall be under the supervision and coordination of the Funeral Director and/or the designee of the City of Fernley.

(D) Casket not to be disturbed: Once a casket containing a body is in the confines of the cemetery, no funeral director, or his embalmer, or assistance, employee, agent, cemetery official or any other person shall be permitted to open a casket or to touch a body without the consent of the legal representative of the deceased or without a court order.

(E) Not Responsible for Embalming or Identity: The City shall not be held responsible for the interment permit nor for the identification of any person sought to be interred, nor the burial preparation of the deceased.

(F) Above the Ground Crypts: No above ground crypts or tombs shall be permitted in the Fernley Garden Cemetery.

9.09.07 SITE PREPARATION:

(A) Approved Grave Liners: Every earth interment must be in an outside receptacle of metal, concrete, or fiberglass box. The receptacle shall be furnished and installed by the mortuary. The City shall have the right to refuse any such receptacle that is damaged or in any way inadequate.

(B) Equipment Used: Tents, artificial grass, lowering devices and other equipment used in making interments, disinterment, and removals shall be furnished by the mortuary.

9.09.08 PERMANENT MARKERS:

(A) Permanent Markers: All graves shall have a permanent memorial or marker; markers are not to be over three feet high unless prior approval is obtained from the City of Fernley. Permanent Markers shall be installed by the Responsible Party.

(B) Headstone: Within one (1) year the Responsible Party of the deceased shall have erected on the plot a marker, constructed of good quality granite, marble, or bronze, setting forth at a minimum, the name of deceased buried on the plot, birth date, and date of death.

(C) Gravesites: shall be curbed with marble or concrete, 6” wide and 6” above grade, at the Responsible Party’s expense. All such installations shall meet with the approval of the City of Fernley representatives. For maintenance purposes, individual fences around burial plots are not permitted.

9.09.09 DISINTERMENT:

(A) Notice of Disinterment Required: The City reserves the right to require at least ten (10) days prior notice to any disinterment. No disinterment will be made on Saturday, Sunday, legal holiday or on the day which any holiday is legally observed. All disinterment shall be done at the convenience of the City of Fernley.

(B) Permission for Disinterment: No disinterment of a body will be made without an order of a court of competent jurisdiction. The County Coroner shall also be notified as to the disinterment.

(C) Care in Removal: The City shall be involved only to the extent of opening the grave and shall assume no liability for any damage to any casket, incurred in making a removal. The actual removal of the casket from the grave and the cemetery shall be done by the person or person’s legally authorized to make the removal.

9.09.10 RULE GOVERNING THE MAINTENANCE OF CEMETERY:

(A) Prohibited Activities within the Cemetery: Domestic animals, including, but not limited to, dogs and horses are forbidden in the cemeteries. No driving or riding shall be allowed on graves, lawns, or walks; this applies to animals, bicycles and all

motor vehicles including cars, trucks, jeeps, motor bikes, snow mobiles and machinery. All persons violating the cemetery rules shall be held responsible for any damage done by them or by any animal or vehicles in their charge.

(B) Maintaining Burial Sites: The Responsible Party of the deceased shall be responsible for the general upkeep and appearance of said plots. The City shall not be responsible for the maintenance of individual grave sites.

(C) Landscaping of plots: No planting of live plants or trees is permitted.

(D) Decorations of plots: All decorations shall be limited to the grave site. No decorations shall be hung or attached to the cemetery fences. No glass containers shall be allowed on grave sites. Only artificial or fresh cut flowers, sprays, wreaths, U.S. Flags and Christmas blankets will be allowed at any time. However, they will be removed if the in the City's opinion they become unsightly or are blown off the graves.

(E) Liability to Decorations: The City shall not be held liable for lost, misplaced, or broken vases or for damages by the elements, theft, vandals or by causes beyond its control. The City reserves the right to regulate the method of decorating plots and the right to remove any decoration so that uniform beauty may be maintained.

(F) Firearms: No firearms shall be permitted within the cemeteries, except at a military funeral or similar occasion, by a military organization, law enforcement officer or by a special permit from the City.

(G) Preserving Landscape and Wildlife: All persons are forbidden to pick, remove, cut or damage any flowers, trees, shrubs, or plants on any grave, or to deface any monument, structure or other property, or to disturb birds and other wildlife within the City's Cemetery.

9.09.11 CEMETERY FUND:

(A) A special fund will be set up, separate from all other funds of the City, and designated as the "City of Fernley Cemetery Care Fund". This fund is to be established from revenues paid to the City for cemetery lots, grants, endowments or from other sources. This fund is to be established for funding care of the City cemetery.

9.09.12 PLOT ACQUISITIONS:

(A) All fees regarding plot acquisition will be set by a resolution of the City Council. A burial plot must be paid for, in full, before a burial or cremation can be performed.

(B) Purchased plot ownership may be transferred. The Responsible Party shall contact the City of Fernley's Cemetery Representative for procedures and payment of the appropriate transfer fee.

(C) Veteran's burials: A Veteran's burial or cremation plots will be donated to the deceased. A DD214 form is required.

(D) Children burials: Burial or cremation plots for children under three years of age will be donated to the family of the child.

(E) Indigent burials: An indigent burial plot will be donated to the deceased upon approval by Lyon County Human Services. Application for Burial of indigents must be review and approved by Lyon County Human Services.

9.09.13: SPECIFICATIONS FOR CURBING OF CEMETERY PLOTS:

(A) Head Curbing: Finished cement should measure 12" wide and 8" thick. The width is usually dictated by the size of the headstone.

(B) Side and Bottom Curbing:
   (1) Finished cement should measure 6" wide and 8" thick;
   (2) No less than 4" – 5" of curbing must be below ground level;
   (3) All curbing shall have at least two reinforcing bars (rebar) along the full length of head curbing and one reinforcing bar on remaining edges. Rebar used in all curbing should be either 1/2" or 3/8" thick.

(C) Concrete Caps: When the entire plot is covered with cement it is called a "CAP" the dimensions are as follows:
   (1) Thickness should be at least 4";
   (2) 6" x 6" / #10 - #10 WWF (wire mesh) must be used throughout the entire cap;
   (3) Cap must be poured inside the curbing described in FMC 9.09.13§A-B

TITLE 10: COMMUNITY DEVELOPMENT AND BUILDING

CHAPTER 1: ADOPTION OF THE CITY OF FERNLEY DEVELOPMENT CODE

10.01.01**:** To promote the public interest, health, safety, morals, convenience and general welfare, “the Council” hereby adopts the City of Fernley Development Code and as properly amended. (ORD 2003-009)

TITLE 11: PERSONNEL REGULATIONS

CHAPTER 1: GENERAL PERSONNEL PROVISIONS

11.01.01: MERIT PERSONNEL SYSTEM ESTABLISHED: A merit personnel system for all employees of the City, except those exempted by policy or regulation adopted by the Fernley City Council and permitted by state and federal law to be exempt, is hereby established.

11.01.02: ADMINISTRATION: The Fernley City Council shall be responsible for the establishment and administration of City of Fernley personnel regulations, policies and procedures.

11.01.03: REGULATIONS, POLICIES AND PROCEDURES: The Fernley City Council shall adopt, by resolution, rules, regulations or policies governing City of Fernley personnel. The City Council may amend or change, by resolution, the personnel regulations, policies and procedures at any time.

11.01.04: CONFLICT: In the event of a conflict between the regulations, policies and procedures adopted pursuant to this title and the provisions of a collective bargaining agreement entered into pursuant to Nevada law, the terms of the agreement shall prevail.

CHAPTER 2: BACKGROUND CHECK REQUIRED

11.02.01: BACKGROUND CHECK REQUIRED

(A) Pursuant to N.R.S. 239B.010(1) and where authorized by State statute or City Ordinance, these positions with and licenses granted by the City of Fernley require a background and personal history check:

(1) All persons who make application for employment with the City of Fernley and volunteers who are employed in a safety sensitive position which job duties include:

(a) Operation of heavy equipment;

(b) Operation of City vehicles;

(c) Use of or access to hazardous, toxic, volatile or controlled substances within the scope of their job duties;

(d) Access to private property;

(e) Cash receipting ; and

(f) Access to confidential, privileged or protected information.

(2) All persons who make application for a liquor license; and

(3) All persons who make application for a work card in establishments providing alcohol; and

(4) All persons who make application for a food and beverage handler's permit; and

(5) All persons who make application for a door to door solicitor's identification.

(B) BACKGROUND CHECK PROCEDURE:

(1) To request and receive information from the Federal Bureau of Investigation concerning the persons identified in Section A, the City of Fernley must require the person to submit a complete set of fingerprints, and then forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(2) If federal law requires different procedures to request and receive information from the Federal Bureau of Investigation, then the City of Fernley must comply with those procedures in order to obtain this information.

(3) The persons identified in Section A must be informed that, and this process is restricted to, submission of fingerprints for the purpose of determining a person's fitness for employment, acting on behalf of the City of Fernley as a volunteer, or their fitness for a license, permit, or identification to be granted by the City of Fernley. (ORD 2008-012)

CHAPTER 3: PROTECTION OF CITY OFFICERS AND EMPLOYEES FROM REPRISAL OR RETALIATION FOR DISCLOSING IMPROPER GOVERNMENTAL ACTION

11.03.01: DEFINITIONS:
IMPROPER GOVERNMENTAL ACTION: Any action taken by an officer or employee in the performance of his official duties, whether or not the action is within the scope of his employment, which is:
(a) In violation of any state law or regulation;
(b) In violation of Fernley City Code, an ordinance adopted by the City Council, or an ordinance or regulation adopted by the appointing authority which employs the officer or employee;
(c) An abuse of authority;
(d) Of substantial and specific danger to the public health or safety; or
(e) A gross waste of public money.

CITY: City of Fernley, County of Lyon, State of Nevada

CITY EMPLOYEE: Any person who performs public duties under the direction and control of a City officer for compensation paid by or through the City.

CITY OFFICER: A person elected or appointed to a position with the City that involves the exercise of a City power, trust or duty, as applicable, including:
(a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of City policy;
(b) The expenditure of money of the City; or
(c) The enforcement of laws and regulations of the state, county, or City.

REPRISAL OR RETALIATORY ACTION includes:
(a) The denial of adequate personnel to perform duties;
(b) Frequent replacement of members of the staff;
(c) Frequent and undesirable changes in the location of an office;
(d) The refusal to assign meaningful work;
(e) The issuance of letters of reprimand or evaluations of poor performance;
(f) A demotion;
(g) A reduction in pay;
(h) The denial of a promotion;
(i) A suspension;
(j) A dismissal;
(k) A transfer;
(l) Frequent changes in working hours or workdays; or
(m) If the employee is licensed or certified by an occupational licensing board, the filing with that board, by or on behalf of the employer, of a complaint concerning the employee, if such action is taken, in whole or in part because the City officer or employee disclosed information concerning improper governmental action.

11.03.02: APPOINTMENT, QUALIFICATIONS AND AUTHORITY OF HEARING OFFICER, CITY MANAGER'S DUTIES:

(A) The City Council will periodically appoint a hearing officer or a panel of hearing officers from the recommendations made by the City manager.

(B) A person who wishes to serve as a hearing officer pursuant to this Chapter must:

(1) Possess a bachelor's degree from an accredited college or university and have at least 4 years of professional experience in resolving disputes between opposing parties, 2 years of which included making determinations or adjudicating issues by interpreting statutes or administrative rules or regulations;

(2) Possess an associate's degree from an accredited junior college or community college and have at least 5 years of professional experience in resolving disputes between opposing parties, 2 years of which included making determinations or adjudicating issues by interpreting statutes or administrative rules or regulations;

(3) Have at least 2 years of experience as a hearing officer with an administrative agency of the state; or

(4) Possess any other combination of education and experience which the City Manager deems to be equivalent to the education and experience required by paragraph 1, 2 or 3, and demonstrates to the satisfaction of the City Manager that he possesses the knowledge, skills, and abilities required by this subsection.

(C) In addition to those qualifications listed in subsection 2, a hearing officer must be able to:

(1) Interact effectively with all participants at a hearing in a manner which ensures an impartial, orderly proceeding;

(2) Work independently;

(3) Listen and analyze the evidence presented at a hearing and communicate effectively his decisions on motions and objections related to that evidence;

(4) Communicate effectively, orally and in writing with persons from a variety of social, economic and educational backgrounds;

(5) Render an impartial decision based on:

(a) The evidence presented at a hearing; and

(b) An objective analysis of applicable statutes, regulations and case law;

(6) Write decisions and opinions in a clear, concise and accurate manner; and

(7) Be knowledgeable of the provisions of state law and regulations, and City code relating to local governments.

(D) If the hearing officer determines that the action taken was reprisal or retaliatory action, the hearing officer may issue an order directing the proper person to desist and refrain from engaging in such action. The hearing officer shall file his decision with the City Manager, or other elected or appointed board responsible for the actions of that person and prepare a separate copy

redacting identifying or sensitive information. The redacted copy of the decision of the hearing officer shall be made public.

(E) The City Manager, or the City Manager's designee, shall provide each officer and employee with a summary of the hearing officer's determination.

11.03.03: WRITTEN APPEAL BY OFFICER OR EMPLOYEE WHO CLAIMS REPRISAL OR RETALIATORY ACTION WAS TAKEN:

(A) A City officer or employee who claims a reprisal or retaliatory action was taken against him for disclosing information concerning improper governmental action may file a written appeal with the City Manager. The appeal must be:
  (1) Filed within 60 workdays after the date the alleged reprisal or retaliatory action took place.
  (2) Submitted on a form provided by the City Manager.
  (3) Contain a statement that sets forth with particularity:
    (a) The facts and circumstances under which the discloser of improper governmental action was made; and
    (b) The reprisal or retaliatory action that is alleged to have been taken against the City officer or employee.

(B) Upon receipt of the written appeal, the City Manager shall contact a hearing officer from among those who have qualified and been appointed by the Council. The City Manager shall ascertain whether the hearing officer has any conflicts which would prevent him from hearing the appeal. The hearing officer shall be entitled to reasonable compensation from the City for time spent hearing and determining the appeal, and for reasonable travel costs or other expenses incurred in hearing the appeal. The City Manager shall forward the written appeal to the hearing officer.

(C) The hearing officer may reject an appeal form that is incomplete or otherwise deficient as insufficient to commence appeal.

11.03.04: TIME FOR HEARING; CONTINUANCES:

(A) The hearing officer shall convene the hearing at the time and place specified for the purpose of hearing the appeal.

(B) Written notice of the time and place of the hearing must be given to the parties at least 10 days in advance. The notice must contain the information required for a party to request reasonable accommodation.

(C) The hearing officer shall provide reasonable accommodation to a party with a disability who requests such accommodation with the time sufficient to make the accommodation.

(D) Hearings may be continued beyond the period originally scheduled or recessed until a future date which is agreeable to the hearing officer and the parties if good cause is shown.

11.03.05: PROCEDURES FOR CONDUCT OF HEARING ON WRITTEN APPEAL; HEARING OFFICER'S DECISION:

(A) The provisions of this section govern the procedure for conducting a hearing for a written appeal filed pursuant to this chapter.

(B) The employee or officer filing the appeal may represent himself at the hearing or be represented by an attorney or other person of the employee's or officer's own choosing.

(C) All testimony must be under oath administered by the hearing officer.

(D) The appeal must be heard in the following manner:

(1) Opening statement for the officer or employee.

(2) Opening statement for the employer, unless reserved.

(3) Presentation of the officer's or employee's case followed by cross-examination. During the presentation of the officer's or employee's case, the county officer or employee must establish:

(a) The officer or employee was an officer or employee on the date of the alleged reprisal or retaliatory action;

(b) The officer or employee disclosed information concerning improper governmental action; and

(c) The alleged reprisal or retaliatory action was taken against him within 2 years after the date he disclosed the information concerning improper governmental action.

(d) If the officer or employee establishes the facts set forth in paragraph 11.03.05 D(3) presentation of the employer's case, followed by cross-examination, to establish that the employer did not engage in the alleged reprisal or retaliatory action or that the action was taken for a legitimate business purpose and was not the result of the disclosure of information concerning improper governmental action by the officer of employee.

(e) If the employer establishes a legitimate business purpose for the alleged reprisal or retaliatory action, the officer or employee may introduce evidence, followed by cross examination, to demonstrate that the stated business purpose is a pretext for the reprisal or retaliatory action.

(f) The parties may respectively offer rebutting testimony only, unless the hearing officer permits additional evidence upon the original cause.

(g) Argument for the officer or employee.

(h) Argument for the employer.

(i) Closing argument for the officer or employee.

(k) Submission of the appeal for a decision.

(E) Except as otherwise provided in subsection F, all hearings on appeals must be open to the public.

(F) On the motion of either party, the hearing officer shall exclude from the hearing room witnesses in the matter not at the time under examination except the parties to the proceeding. No hearing may be closed except on motion of either party for good cause shown.

(G) A document or piece of physical evidence sought to be introduced during the hearing must first be identified for the record and the hearing officer may

request the production of such records and the appearance of such persons as he requires.

(H) The hearing officer shall determine the evidence upon the charges and specifications as set forth by the appeal document, and shall not consider any additional evidence beyond the scope of the charges.

(I) An officer's or employee's past performance by way of an act or a failure to act may be shown by competent evidence.

(J) All testimony and exhibits offered at the hearing must be relevant and bear upon the matter in contention. Any testimony or exhibits which are considered by the hearing officer as not meeting this criterion may properly be excluded.

(K) The hearing officer shall also consider the objection of either side to the introduction of evidence. Competence and relevance must be the primary test in ruling on objections.

(L) A decision must be based on evidence presented. The hearing officer shall be guided in his decision by the weight of the evidence as it appears to him at the hearing.

(M) Any letter, paper or object offered in evidence must be properly authenticated. The representative for the opposing party is entitled to examine the exhibit when it is offered.

(N) The hearing officer shall render his decision within 30 days of the conclusion of the hearing.

11.03.06: PROHIBITIONS AND APPLICATION:

(A) An officer or employee shall not directly or indirectly use or attempt to use the officer’s or employee’s official authority or influence to intimidate, threaten, coerce, command, influence or attempt to intimidate, threaten, coerce, command or influence, another officer or employee, as applicable, in an effort interfere or prevent the disclosure of information concerning improper governmental action.

(B) For the purposes of this section, use of "official authority or influence" includes taking, directing others to take, recommending, processing or approving any personnel action, such as an appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, evaluation or other disciplinary action.

(C) An officer or employee shall not use the provisions contained in this chapter to harass another officer or employee.

(D) Nothing contained in this chapter prohibits an officer or employee from initiating proper disciplinary procedures against another officer or employee, as applicable, who discloses untruthful information concerning improper governmental action.

(E) This chapter is intended to be directory and preventive rather than punitive, and do not abrogate or decrease the effect of any of the provisions of state statutes or City code provisions which define crimes or prescribe punishments with respect to the conduct of officers or employees.