

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.

WHOLESALE 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 & SALARY OF THE CITY MANAGER:

(A) APPOINTMENT: The City Manager, pursuant to NRS 266.395 and 266.405, shall be appointed by the Mayor with consent of the City Council. Consent shall be defined as a majority vote of the Council. The City Manager shall be hired pursuant to a hiring process resolution adopted by the City Council and the Mayor with consultation from Human Resources and Legal.

(B) QUALIFICATIONS: The Manager shall be chosen by the Mayor and City Council on the basis of executive and administrative qualifications with special reference to actual experience or knowledge regarding the duties of the office hereinafter set forth. The Manager serves at-will at the pleasure of the Mayor and City Council, and may be terminated for any reason or no reason, with or without notice, so long as the termination is not for an illegal reason. All recommendations for appointment or removal shall be 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 within three months of employment, shall reside within 60 miles of the city limits. No Mayor or Councilmember shall receive such appointment unless in compliance with State Law.

(C) The salary and benefits of the City Manager, shall be set by the Mayor with approval of the City Council, including but not limited to personal time off, insurance benefits for the City Manager and dependents, retirement benefits, bonuses and raises, all of which are discretionary, and not guaranteed.

(D) The City Manager is subject to the City’s handbook and personnel policies except those policies covering discipline, lay-off and dispute resolution. The City Manager is excluded from any due process rights which may be provided in those policies, in light of the at-will status of the position.

1.05.03: REMOVAL OF THE CITY MANAGER: The City Manager may be removed by the Council through a majority vote. These removals are subject to veto by the Mayor pursuant to NRS Chapter 266 as well as the rules and law governing a super-majority vote addressed in NRS 266.200.

1.05.04: POWERS AND DUTIES OF THE CITY MANAGER:

(A) Chief Administrative Officer: 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 City Manager shall be the Chief Administrative Officer/Chief Operational Officer, and the City Manager shall direct his/her efforts toward enforcing the vision, budget, and ordinances established by the City Council.

The City Manager shall communicate and cooperate with the Chief Executive Officer, the Mayor, in accomplishing these described objectives, powers, and responsibilities. It is the City Manager's responsibility to keep the Mayor and City Council informed relative to the City's needs and conditions, as well as to provide the Mayor and City Council with any reports that may be required by law or requested by the Mayor or City Council.

(B) Exceptions to Authority: 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:

1) Authority over Statutory Positions & Evaluations:

Statutory positions established through NRS: The City Attorney, City Clerk, City Treasurer, and Municipal Judge, serve at the pleasure of the Mayor and the City Council pursuant to NRS 266.415.

The City Manager shall be subject to an employee evaluation process once a year at a minimum. Said evaluations shall be conducted in compliance with the Open Meeting Law. Evaluations will be conducted by the Mayor with an evaluation form that has been approved by the City Council and the Mayor. The Mayor has the discretion but is not required to solicit a peer review from the Statutory Positions (using an approved peer review form). The Mayor shall use the City Council evaluations as part of the final evaluation ranking summary numbers.

Although the statutory positions serve at the pleasure of the Mayor and City Council, failure to follow the reasonable day to day recommendations from the City Manager may result in the City Manager reporting said failures to the Mayor and City Council. Upon receipt of said report, the Mayor and City Council may take action to determine if an investigation through Human Resources and/or no action is appropriate based on the Statutory Position's actions reported by the City Manager. In turn, the Statutory Positions may report any failures of the City Manager or disagreement of the City Manager's day to day recommendations to the Mayor and the City Council. Upon receipt of said report from the Statutory positions, the Mayor and the Council may take action to determine if an investigation through Human Resources and/or no action is appropriate based on the City Manager's actions.

The City Council and Mayor reserve the power to make all determinations regarding employment decisions relative to pay, scope of duties, hiring and/or dismissal of the City Manager. The City Council and the Mayor reserve the power to make decisions regarding disciplinary matters according to the process laid out in this Chapter and subject to the jurisdiction of the Nevada Commission on Ethics. Day to day supervision of the City Manager, including hours of work, shall be the authority vested in the Mayor.

The City Manager shall also have the authority to place any Statutory Position, except the Municipal Judge, on immediate paid administrative leave for violations of law or policy. Placing an employee on paid administrative leave is not a disciplinary action. After the employee is placed on administrative leave, the Mayor may call for a special

meeting of the City Council to discuss the matter, or the City Manager shall bring the decision for confirmation and/or action by the City Council and Mayor to the next regularly scheduled meeting if open meeting law compliance is possible. The City Manager shall notify the Mayor and City Council that the statutory position was placed on administrative leave within 24 hours of the statutory position being placed on leave.

With the exception of the Municipal Judge, the City Manager shall also have the authority to initiate an investigation regarding all City Employees, including, but not limited to, the Statutory Positions, the Mayor, and the City Councilmembers, for violations of the law and/or the policies of the City, and take action as allowed by law. Within 24 hours of the initiation of the investigation, The City Manager shall notify the Mayor and City Councilmembers (who are not the subject of the investigation), that an investigation has begun only with regard to a Statutory Position, the Mayor, or a City Councilmember, as well as any notification as required by policy or law. Should an incident arise regarding the City Manager, the Assistant City Manager with Human Resources shall take the position of the City Manager in the requirements above. Should the position of Assistant City Manager not exist, Human Resources shall take the position of the City Manager in the requirements above.

- 1) Under Nevada Revised Statutes Chapter 266, the Mayor is the Chief Executive Officer. Therefore, when a personnel issue arises with the City Manager, the point of contact shall be the Mayor.
 - a. Any person who knows of an alleged issue may decide to move forward through the process by contacting the Mayor.
- 2) After consultation with Legal and Human Resources, the Mayor shall also have the authority to place the City Manager on immediate paid administrative leave for violations of law or policy.
 - i) Placing an employee on paid administrative leave is not a disciplinary action. After the employee is placed on administrative leave, the Mayor may call for a special meeting of the City Council to discuss the matter, or the Mayor shall bring the decision for confirmation and/or action by the City Council and Mayor to the next regularly scheduled meeting if open meeting law compliance is possible.
 - ii) The Mayor shall notify the City Council that the City Manager was placed on administrative leave within 24 hours of the statutory position being placed on leave.

(C) Administrative Authority: 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 and the Collective Bargaining Agreement. The City Manager's Authority is further defined as follows:

- 2) The Mayor should be consulted and informed of policy decisions prior to making such a decision. The City Manager shall also inform the Mayor and the City Council of all personnel decisions and shall immediately share with the Council all adopted internal policies. All external policies (those affecting the public rather than City internal/administrative policies) shall be brought before the Council for approval.
- 2) Appoint and, when necessary for the good of the City suspend or remove all subordinates of the City Manager when allowed by law. The Manager may authorize the head of a department or office to appoint, suspend, or remove subordinates in such department or office.
- 3) The City Manager shall submit personnel decisions regarding the creation of new positions, reclassifications of any positions, and any rate increase or raise to the City Council for its approval. Any and all raises must be in compliance with the Collective Bargaining Agreement if it applies to employee at issue. 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.
- 4) 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. The City Manager shall prepare the budget with equal participation and input from the City Treasurer. Both the City Manager and the City Treasurer shall meet at a minimum on a weekly basis for the 90 days prior to the budget adoption by Council, or as otherwise directed by the Mayor, and work together cooperatively on preparing the budget. Said meetings are to be set up by the City Manager's Office.
- 5) 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.
- 6) Keep the Council advised of the financial condition and future needs of the City, and make such recommendations as may be deemed desirable.
- 7) Recommend to the Council a schedule under the City Manager (all positions but for the Statutory Positions), including minimum and maximum rates, and step increases subject to approval by City Council.
- 8) 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.

- 9) Consolidate, combine, reorganize, and/or reclassify offices, positions, departments, or units under his/her jurisdiction, with the approval of the Council, to structure the operational departments of the City.
- 10) Attend all meetings of the Council unless excused and take part in the discussion of all matters coming before the Council. The City Clerk shall notice the City Manager of all regular and special meetings of the Council.
- 11) 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:
 - a) \$10,000 without approval from the Mayor or City Council or Legal, as long as budgeted in the current fiscal year or per emergencies as defined in the purchasing policy;
 - b) \$10,001 to \$25,000 with approval from the Mayor and not the City Council as long as budgeted in the current fiscal year or per emergencies as defined in the purchasing policy;
 - c) Receive sealed bids for the purchases or contracts or goods in excess of \$25,000 and present them to the Council and to the City's legal counsel for review as appropriate,
 - d) All in accordance with State law.
- 12) Investigate the affairs of the City or any department or division thereof, as appropriate and pursuant to the above sections. 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.
- 13) Devote his/her time to the discharge of all official duties and will not engage in other employment while working for the City unless approved by Mayor.
- 14) Perform such other duties as may be required by the Mayor, not inconsistent with laws or ordinances.
- 15) Any matter that Council requires the Mayor or City Manager to work on that involves more than 2 (two) hours of work and/or research shall be brought before the Council to approve said direction with a majority vote and shall not violate the Separation of Powers.

1.05.05: EXECUTIVE BRANCH APPOINTMENT AUTHORITY: As the Council is the

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

1.05.06: EMERGENCIES: The City Manager shall have the authority to make purchases for emergencies pursuant to the purchasing policy.

1.05.07: TEMPORARY ABSENCE OR VACANCY/ACTING CITY MANAGER:

- (A) In the event of a temporary absence by the Manager, should the position exist, the Assistant City Manager shall automatically become the Acting City Manager. The City Manager is obligated, if reasonably possible, to immediately notify the Assistant City Manager of said action. The City Manager is obligated to give as much advance notice as possible of any planned absence to the Assistant City Manager.
- (B) If the Assistance City Manager is unable to perform as the Acting City Manager, or the position does not exist, the City Manager may appoint an Acting City Manager during their absence.
- (C) 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.
- (D) 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.
- (E) During a vacancy of the Manager's position, the Mayor with confirmation by 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 City 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 2015-002)

CHAPTER 6: CITY ATTORNEY

1.06.01: CREATION OF OFFICE: The office of City Attorney, hereinafter referred to as “City Attorney” or “Attorney”, is hereby created.

1.06.02: APPOINTMENT & SALARY OF THE CITY MANAGER:

- (A) APPOINTMENT: The City Attorney, pursuant to NRS 266.395 and 266.405, shall be appointed by the Mayor with consent of the City Council. Consent shall be defined as a majority vote of the Council. The City Attorney shall be hired with consultation from Human Resources and Legal. The City Attorney is an at-will employee, who can be terminated with or without cause, for any reason or no reason, so long as it is not an illegal reason, unless otherwise indicated by employment contract between the City Attorney and the City.
- (B) QUALIFICATIONS: The Attorney shall be chosen by the Mayor and City Council on the basis of professional qualifications with special reference to actual experience or knowledge regarding 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 Attorney without regard to political beliefs or affiliations. The Attorney shall also meet the qualifications required within NRS Chapter 266.
- (C) The salary and benefits of the City Attorney, shall be set by the Mayor with approval of the City Council, including but not limited to personal time off, insurance benefits for the City Attorney and dependents, retirement benefits, bonuses and raises and continuing educations costs, all of which are discretionary, and not guaranteed. Nothing in those benefits or employment offer are intended to alter the City Attorney’s at-will status unless otherwise indicated by a contract between the City Attorney and the City.
- (D) Unless otherwise indicated by a contract between the City Attorney and the City, the City Attorney is an at-will employee as defined by the City’s handbook and personnel policies, subject to those referenced exclusions. Accordingly, the City Attorney is subject to the City’s handbook and personnel policies except those policies covering discipline, lay-off and dispute resolution. The City Attorney is excluded from any due process rights which may be provided in those policies, in light of the at-will status of the position, unless otherwise indicated by contract.

1.06.03: POWERS AND DUTIES OF THE CITY ATTORNEY:

- (A) Chief Legal Advisor: Pursuant to NRS 266.470, the City Attorney shall be the legal advisor of the City Council, the Mayor, and all officers of the City in all matters relating to the affairs of the City.

- (B) Client: The Client shall be the City, and the legal advice given shall be to further the best interests of the City within the law. However, the City Attorney serves at the pleasure of the Mayor and the City Council pursuant to NRS, and is at all times an at-will employee.
- (C) Duties: The City Attorney shall perform such duties as may be appropriate and reasonably required by the Mayor and those established by a majority vote of the City Council. The Council shall speak as one in that no one Councilmember shall have the authority to direct the City Attorney without a majority vote of the Council. Neither the Mayor nor the Council may direct the City Attorney in matters of prosecution. Such direction to the City Attorney shall not conflict with ethics, laws, or ordinances as they exist.
- (D) Conflicts: Should a conflict arise between the executive (Mayor), legislative (Council), and/or administrative branch (Manager and staff), the City may allow the City Attorney to have complete and final authority to hire at City expense, outside legal counsel, without necessity of prior approval, upon which to advise the various branches of government.
- (E) Communicate and Cooperate: The City Attorney shall communicate and cooperate with the Chief Executive Officer, the Mayor, in accomplishing the City Attorney's described objectives, powers, and responsibilities. The City Council and the Mayor should be consulted and informed of all pending litigation.
- (F) Failure to follow legal advice: Although the City Attorney serves at the pleasure of the Mayor and City Council, his/her failure to follow the reasonable day-to-day recommendations from the City Manager may result in the City Manager reporting said failures to the Mayor and City Council. Upon receipt of said report, the Mayor and City Council may take action to determine if further inquiry through Human Resources or other outside sources is appropriate. In turn, the City Attorney may report any failures of the City Manager or disagreement of the City Manager's day-to-day recommendations to the Mayor and the City Council. Upon receipt of said report from the City Attorney, the Mayor and the Council may take action to determine if further action is appropriate based on the City Manager's actions.
- (G) Meetings: The City Attorney shall attend all City Council meetings as he/she is reasonably able and perform legal review of the discussion of matters coming before the Council. The City Clerk shall notice the City Attorney of all meetings of the Council.
- (H) City Attorney Staff Appointment Authority & Direction: Neither the City Manager, the Mayor, nor the Council, nor any of its members, shall direct or request the appointment of any person to, or removal from, positions within the City Attorney's office without consultation with the City Attorney. Said authority shall lay exclusively with the City Attorney, within budgetary restrictions and requirements as set out by the Mayor and the Council. The Council, the Mayor, and City staff shall not direct

any subordinates of the City Attorney, either publicly or privately, without prior approval by the City Attorney.

- (l) Outside Employment: The City Attorney shall devote his/her time to the discharge of all official duties and will not engage in other employment while working for the City unless approved by the Mayor, except for the employee's own legal issues and/or the employee's family legal issues.

1.06.04: EVALUATIONS, EMPLOYMENT DECISIONS, DISCIPLINE & REMOVAL:

(A) Evaluations: The City Attorney shall be subject to an employee evaluation process once a year at a minimum. The City Council may review the employee's file to see if there are relevant HR documents prior to conducting an evaluation on the City Attorney. Said evaluations shall be conducted in compliance with the Open Meeting Law. Evaluations will be conducted by the Mayor with an evaluation form that has been approved by the City Council. The Mayor shall use the City Council evaluations as part of the final evaluation. The Mayor has the discretion, but is not required to solicit a peer review from the Statutory employees, using an approved peer review form.

(B) Employment Decisions: The Mayor and City Council reserve the power to make all determinations regarding employment decisions relative to pay, scope of duties hiring and/or dismissal of the City Attorney. The Mayor and City Council reserve the power to make decisions regarding disciplinary matters according to the process described below and subject to the jurisdiction of the Nevada Commission on Ethics. Day-to-day supervision of the City Attorney, including hours of work, shall be vested in the Mayor.

(C) Discipline:

- 1) Under Nevada Revised Statutes Chapter 266, the Mayor is the Chief Executive Officer. Therefore, when a personnel issue arises with the City Attorney, the point of contact shall be the Mayor. Any person who knows of an alleged issue may decide to move forward through the process by contacting the Mayor.
- 2) The Mayor has the authority to direct Human Resources staff or outside resources, to conduct appropriate fact-finding to determine the validity of the allegation. During the fact-finding process, the Mayor may also meet with Human Resources staff or outside resources and the employee in question with or without Councilmembers, in compliance with Nevada's Open Meeting Law.
- 3) Once the fact-finding is complete, the results will be shared with the Mayor and Council. Any violations of law or policy shall be shared by Human Resources and the Mayor with the City Council regardless of the Mayor's actions regarding said violation. In consultation with Human Resources and/or outside legal, the Mayor may take disciplinary action as deemed appropriate, including but not limited to a counseling memo placed in the City Attorney's personnel file, and after meeting

with the City Attorney to discuss the results. Confirmed violations of law or policy may be discussed at a City Council meeting only after a fact-finding and consultation with Human Resources and/or outside legal resources.

- 4) The City Council may review the employee's file to see if there are relevant HR documents prior to discussing violations of law or policy by the City Attorney. If the results warrant disciplinary action, the Mayor or any Councilmember may then immediately request an item on a future City Council agenda, per City of Fernley Resolution 13-006. The employee to be discussed will receive notice in compliance with open meeting laws, including, as required by law, a list of the policies allegedly violated and/or topics to be discussed. During the "future agenda item" topic the Council can vote to bring the item back if they determine the fact-finding has raised an issue to be addressed. Unless vetoed by the Mayor, if the Council reaches a majority vote, the employee will be noticed under the law, and the employee will be placed on the next agenda for full discussion. If the Council does not vote to bring the item back, the item cannot be revived without a new issue arising.
- 5) Removal: Pursuant to Nevada Revised Statutes Chapter 266, City Attorney may be removed by the Council through a majority vote. These removals are subject to veto by the Mayor pursuant to NRS Chapter 266, as well as the rules and law governing a super-majority vote as addressed in NRS 266.200.

1.06.05: TEMPORARY ABSENCE OR VACANCY/ACTING CITY ATTORNEY AND OUTSIDE LEGAL:

- (A) In the event of a temporary absence by the Attorney, the City Attorney may appoint outside legal or a subordinate to become the Acting City Attorney.
- (B) If the Attorney is incapacitated to the point that he/she cannot make a temporary appointment, the Mayor shall be empowered to appoint an Acting City Attorney.
- (C) If the Attorney is absent due to a suspension or placed on administrative leave by the Council, the Mayor shall be empowered to appoint an Acting City Attorney.
- (D) During a vacancy of the City Attorney, the Mayor with confirmation by the Council may appoint an Acting City Attorney. The Acting City Attorney shall exercise the full authority of the City Attorney during the temporary absence or vacancy of the City Attorney's position.
- (E) With the exception above, the City Attorney shall be the sole employee to possess the authority to hire outside legal counsel, unless a conflict arises which involves the City Attorney. Such items may include but are not limited to: conflicts regarding City issues, coverage due to scheduled or sick absence of the City Attorney, specialty issues, and other matters that arise that the City Attorney

deems warrant outside counsel/legal.

1.06.06: 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 2014-012)

CHAPTER 7: CITY CLERK

1.07.01: CREATION OF OFFICE: The office of the City Clerk, hereinafter referred to as “City Clerk” or “Clerk,” is hereby created.

1.07.02: APPOINTMENT & SALARY OF THE CITY CLERK:

- B. Appointment: The City Clerk, pursuant to NRS 266.395 and 266.405, shall be appointed by the Mayor with consent of the City Council. Consent shall be defined as a majority vote of the Council. The City Clerk shall be hired with consultation from Human Resources and Legal. The City Clerk is an at-will employee, who can be terminated with or without cause, for any reason or no reason, so long as it is not an illegal reason, unless otherwise indicated by employment contract between the City Clerk and the City.
- C. Qualifications: The City Clerk shall be chosen by the Mayor and City Council on the basis of professional qualifications with special reference to actual experience or knowledge regarding 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 Clerk without regard to political beliefs or affiliations.
- D. The salary and benefits of the City Clerk, shall be set by the Mayor with approval of the City Council, including but not limited to personal time off, insurance benefits for the City Clerk and dependents, retirement benefits, bonuses and raises, and continuing education costs, all of which are discretionary, and not guaranteed. Nothing in those benefits or employment offer are intended to alter the City Clerk’s at-will status, unless otherwise indicated by employment contract between the City Clerk and the City.
- E. The City Clerk is an at-will employee as defined by the City’s handbook and personnel policies, subject to those referenced exclusions. Accordingly, the City Clerk is subject to the City’s handbook and personnel policies except those policies covering discipline, lay-off and dispute resolution. The City Clerk is excluded from any due process rights which may be provided in those policies, in light of the at-will status of the position.

1.07.03: POWERS AND DUTIES OF THE CITY CLERK:

- A. Shall keep the corporate seal and all books, records and historical paper belonging to the City.

- B. Shall attend all meetings of the City Council, and other boards and commissions, and maintain a true and accurate record of its proceedings, including the results of the vote of the City Council on all ordinances, contracts, bylaws and resolutions passed or adopted by it. After approval at each meeting of the City Council, the City Clerk shall attest the documents after they have been signed by the Mayor.
- C. Countersign all contracts, ordinances and resolutions made in behalf of the City.
- D. Be the official collector for all franchise, business and liquor licenses fees and penalties for the City. Assign numbers and sign all business and liquor licenses issued by the City. Oversee franchise contracts and updates.
- E. The City Clerk may, with approval of the City Council, appoint deputies. Deputies are not subject to the provisions of this Chapter. The City Clerk may designate a member of his or her staff as Acting City Clerk to:
 - a. Administrator oaths; and
 - b. Perform all the duties of the City Clerk in his or her absence.

- F. City Clerk Staff Appointment Authority and Direction: Neither the City Manager, the Mayor, nor the Council, nor any of its members, shall direct or request the appointment of any person to, or removal from, positions within the City Clerk's office without consultation with the City Clerk. Said authority shall lay exclusively with the City Clerk, within budgetary restrictions and requirements as set out by the Mayor and the Council. The Council, the Mayor, and City staff shall not direct any subordinates of the City Clerk, either publicly or privately, without prior approval by the City Clerk.

- F. The City Clerk shall perform such duties as may be appropriate and reasonably required by the Mayor and those established by a majority vote of the City Council. The Council shall speak as one in that no one Councilmember shall have the authority to direct the City Clerk without a majority vote of the Council.

- G. Although the City Clerk serves at the pleasure of the Mayor and City Council, her/her failure to follow the reasonable day-to-day recommendations from the City Manager may result in the City Manager reporting said failures to the Mayor and City Council. Upon receipt of said report, the Mayor and City Council may take action to determine if further inquiry through Human Resources or other outside sources is appropriate. In turn, the City Clerk may report any failures of the City Manager or disagreement of the City Manager's day-to-day recommendations to the Mayor and the City Council.

- H. Outside Employment: The City Clerk shall devote his/her time to the discharge of all official duties and will not engage in other employment while working for the City unless approved by the Mayor.

1.07.04: EVALUATIONS, EMPLOYMENT DECISIONS, DISCIPLINE & REMOVAL:

- A. Evaluations: The City Clerk shall be subject to an employee evaluation process once a year at a minimum. The City Council may review the employee's file to see if there are relevant Human Resource documents prior to conducting an evaluation on the City Clerk. Said evaluations shall be conducted in compliance with the Open Meeting Law. Evaluations will be conducted by the Mayor with an evaluation form that has been approved by the City Council. The Mayor shall use the City Council evaluations to be used as part of the final evaluation. The Mayor has the discretion, but is not required to solicit a peer review from the statutory employees, using an approved peer review form.

- B. Employment Decisions: The Mayor and City Council reserve the power to make all determinations regarding employment decisions relative to pay, scope of duties,

hiring and/or dismissal of the City Clerk. The Mayor and City Council reserve the power to make decisions regarding disciplinary matters according to the process described below and subject to the jurisdiction of the Nevada Commission on Ethics. Day-to-day supervision of the City Clerk, including hours of work, shall be vested in the Mayor.

C. Discipline:

- 1) Under Nevada Revised Statutes Chapter 266, the Mayor is the Chief Executive Officer. Therefore, when a personnel issue arises with the City Clerk, the point of contact shall be the Mayor. Any person who knows of an alleged issue may decide to move forward through the process by contacting the Mayor.
- 2) The Mayor has the authority to direct Human Resources staff or outside resources, to conduct appropriate fact-finding to determine the validity of the allegation. During the fact-finding process, the Mayor may also meet with Human Resources staff or outside resources and the employee in question with or without Councilmembers, in compliance with Nevada's Open Meeting Law.
- 3) Once the fact-finding is complete, the results will be shared with the Mayor and Council. Any violations of law or policy shall be shared by Human Resources and the Mayor with the City Council regardless of the Mayor's actions regarding said violation. In consultation with Human Resources and/or outside legal, the Mayor may take disciplinary action as deemed appropriate, including but not limited to a counseling memo placed in the City Clerk's personnel file, and after meeting with the City Clerk to discuss the results. Confirmed violations of law or policy may be discussed at a City Council meeting only after a fact-finding and consultation with Human Resources and/or Legal.
- 4) The City Council may review the employee's file to see if there are relevant Human Resource documents prior to discussing violations of law or policy by the City Clerk. If the results warrant disciplinary action, the Mayor or any Councilmember may then immediately request an item on a future City Council agenda, per current City of Fernley Resolution 13-006. The employee to be discussed will receive notice in compliance with Open Meeting Laws, including, as required by law, a list of the policies allegedly violated and/or topics to be discussed. During the "future agenda item" topic the Council can vote to bring the item back if they determine the fact-finding has raised an issue to be addressed. Unless vetoed by the Mayor, if the Council reaches a majority vote, the employee will be noticed under the law, and the employee will be placed on the next agenda for full discussion. If the Council does not

vote to bring the item back, the item cannot be revived without a new issue arising.

- D. Removal: Nevada Revised Statutes Chapter 266, City Clerk may be removed by the Council through a majority vote. These removals are subject to veto by the Mayor pursuant to NRS Chapter 266, as well as the rules and law governing a super-majority vote as addressed in NRS 266.200.

1.07.05: TEMPORARY ABSENCE OR VACANCY/ACTING CITY CLERK:

- A. In the event of a temporary absence by the City Clerk, the Deputy City Clerk may become the Acting City Clerk.
- B. If the Clerk is absent due to a suspension or placed on administrative leave by the Council, the Mayor shall be empowered to appoint an Acting City Clerk.
- C. During a vacancy of the City Clerk, the Mayor with confirmation by the Council may appoint an Acting City Clerk. The Acting City Clerk shall exercise the full authority of the City Clerk during the temporary absence or vacancy of the City Clerk's position.

1.07.06: 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 2015-006

CHAPTER 8: CITY TREASURER

1.08.01: CREATION OF OFFICE: The Office of City Treasurer is hereby created.

1.08.02: APPOINTMENT OF CITY TREASURER:

- A. Appointment: The City Treasurer, pursuant to NRS 266.395 and 266.405, shall be appointed by the Mayor with consent of the City Council. Consent shall be defined as a majority vote of the Council. The City Treasurer shall be hired with consultation from Human Resources and Legal. The City Treasurer is an at-will employee, who can be terminated with or without cause, for any reason or no reason, so long as it is not an illegal reason, unless otherwise indicated by employment contract between the City Treasurer and the City.
- B. Qualifications: The City Treasurer shall be chosen by the Mayor and City Council on the basis of professional qualifications with special reference to actual experience or knowledge regarding 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 Treasurer without regard to political beliefs or affiliations.
- C. The salary and benefits of the City Treasurer, shall be set by the Mayor with approval of the City Council, including but not limited to personal time off, insurance benefits for the City Treasurer and dependents, retirement benefits, bonuses and raises, and continuing education costs, all of which are discretionary, and not guaranteed. Nothing in those benefits or employment offer are intended to alter the City Treasurer's at-will status, unless otherwise indicated by employment contract between the City Treasurer and the City.
- D. The City Treasurer is an at-will employee as defined by the City's handbook and personnel policies, subject to those referenced exclusions. Accordingly, the City Treasurer is subject to the City's handbook and personnel policies except those policies covering discipline, lay-off and dispute resolution. The City Treasurer is excluded from any due process rights which may be provided in those policies, in light of the at-will status of the position.

- E. City Treasurer Staff Appointment Authority and Direction: Neither the City Manager, the Mayor, nor the Council, nor any of its members, shall direct or request the appointment of any person to, or removal from, positions within the City Treasurer's office without consultation with the City Treasurer. Said authority shall lay exclusively with the City Treasurer, within budgetary restrictions and requirements as set out by the Mayor and the Council. The Council, the Mayor, and City staff shall not direct any subordinates of the City Treasurer, either publicly or privately, without prior approval by the City Treasurer.
- F. The City Treasurer shall perform such duties as may be required by stature and those appropriate and reasonably required by the Mayor and those established by a majority vote of the City Council. The Council shall speak as one in that no one Councilmember shall have the authority to direct the City Treasurer without a majority vote of the Council.
- G. Although the City Treasurer serves at the pleasure of the Mayor and City Council, her/her failure to follow the reasonable day-to-day recommendations from the City Manager may result in the City Manager reporting said failures to the Mayor and City Council. Upon receipt of said report, the Mayor and City Council may take action to determine if further inquiry through Human Resources or other outside sources is appropriate. In turn, the City Treasurer may report any failures of the City Manager or disagreement of the City Manager's day-to-day recommendations to the Mayor and the City Council.
- H. Outside Employment: The City Treasurer shall devote his/her time to the discharge of all official duties and will not engage in other employment while working for the City unless approved by the Mayor.

1.07.04: EVALUATIONS, EMPLOYMENT DECISIONS, DISCIPLINE & REMOVAL:

- A. Evaluations: The City Treasurer shall be subject to an employee evaluation process once a year at a minimum. The City Council may review the employee's file to see if there are relevant Human Resource documents prior to conducting an evaluation on the City Treasurer. Said evaluations shall be conducted in compliance with the Open Meeting Law. Evaluations will be conducted by the Mayor with an evaluation form that has been approved by the City Council. The Mayor shall use the City Council evaluations to be used as part of the final evaluation. The Mayor has the discretion, but is not required to solicit a peer review from the statutory employees, using an approved peer review form.
- B. Employment Decisions: The Mayor and City Council reserve the power to make all determinations regarding employment decisions relative to pay, scope of duties, hiring and/or dismissal of the City Treasurer. The Mayor and City Council reserve the power to make decisions regarding disciplinary matters according to the process described below and subject to the jurisdiction of the Nevada Commission on Ethics. Day-to-day supervision of the City Treasurer, including hours of work, shall be vested in the Mayor.

C. Discipline:

- 1) Under Nevada Revised Statutes Chapter 266, the Mayor is the Chief Executive Officer. Therefore, when a personnel issue arises with the City Treasurer, the point of contact shall be the Mayor. Any person who knows of an alleged issue may decide to move forward through the process by contacting the Mayor.
- 2) The Mayor has the authority to direct Human Resources staff or outside resources, to conduct appropriate fact-finding to determine the validity of the allegation. During the fact-finding process, the Mayor may also meet with Human Resources staff or outside resources and the employee in question with or without Councilmembers, in compliance with Nevada's Open Meeting Law.
- 3) Once the fact-finding is complete, the results will be shared with the Mayor and Council. Any violations of law or policy shall be shared by Human Resources and the Mayor with the City Council regardless of the Mayor's actions regarding said violation. In consultation with Human Resources and/or outside legal, the Mayor may take disciplinary action as deemed appropriate, including but not limited to a counseling memo placed in the City Treasurer's personnel file, and after meeting with the City Treasurer to discuss the results. Confirmed violations of law or policy may be discussed at a City Council meeting only after a fact-finding and consultation with Human Resources and/or Legal.
- 4) The City Council may review the employee's file to see if there are relevant Human Resource documents prior to discussing violations of law or policy by the City Treasurer. If the results warrant disciplinary action, the Mayor or any Councilmember may then immediately request an item on a future City Council agenda, per current City of Fernley Resolution 13-006. The employee to be discussed will receive notice in compliance with Open Meeting Laws, including, as required by law, a list of the policies allegedly violated and/or topics to be discussed. During the "future agenda item" topic the Council can vote to bring the item back if they determine the fact-finding has raised an issue to be addressed. Unless vetoed by the Mayor, if the Council reaches a majority vote, the employee will be noticed under the law, and the employee will be placed on the next agenda for full discussion. If the Council does not vote to bring the item back, the item cannot be revived without a new issue arising.

- D. Removal: Nevada Revised Statutes Chapter 266, City Treasurer may be removed by the Council through a majority vote. These removals are subject to veto by the Mayor pursuant to NRS Chapter 266, as well as the rules and law governing a super-majority vote as addressed in NRS 266.200.

1.07.05: TEMPORARY ABSENCE OR VACANCY/ACTING CITY Treasurer:

- A. In the event of a temporary absence by the City Treasurer, Mayor is empowered to appoint the Deputy City Treasurer as Acting City Treasurer. If such a position does not exist, the Mayor is empowered to appoint an Acting City Treasurer. If the Treasurer is absent due to a suspension or placed on administrative leave by the Council, the Mayor shall be empowered to appoint an Acting City Treasurer
- B. During a vacancy of the City Treasurer, the Mayor with confirmation by the Council may appoint an Acting City Treasurer. The Acting City Treasurer shall exercise the full authority of the City Treasurer during the temporary absence or vacancy of the City Treasurer's position.

1.07.06: 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 2016-003

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: ESTABLISHMENT 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 I, 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

1.10.01: PRIMARY 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 southwest, 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 AND ANNUAL INCREASES: Whereas, Nevada Revised Statutes section 266.450 requires compensation for City-elected officers to be set by ordinance, and the Council recognizes the requirements for, and workload of, the City-elected officers, just compensation is both fair and necessary for the work done by the City-elected officers; and,

Whereas, effective April 2005 salaries for City Council were set at \$640.42 per month; and,

Whereas, since that date, City Council members have received annual increases, based on the U.S. Consumer Price Index, CPI U (all urban consumers); and,

Whereas, effective April 2005 the salary for the Mayor was set at \$900.00 per month; and,

Whereas, since that date, the Mayor has received annual increases based on the U.S. Consumer Price Index, CPI U (all urban consumers); and,

Whereas, the CPI adjustments shall continue each July 1;

Therefore, Council members will continue to receive annual increases adjusted to include the annual cost-of-living adjustment set by the U.S. Consumer Price Index, CPI U (all urban consumers); and,

Therefore, newly-elected Council members will receive compensation at the same rate as the Council member whose position they are assuming; and will receive annual increases adjusted to include the annual cost-of-living adjustment set by the U.S. Consumer Price Index, CPI U (all urban consumers); and,

Therefore, effective July 1, 2017, the Mayor shall receive compensation at the rate of twice the amount being paid to Council members.

1.11.02: BENEFITS: (1) 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.

(2) The Mayor and Council may access the Medical, Dental, and Vision plans available through the City. The Mayor and City Council Members shall pay the full premium of the plan(s) selected.

Insurance premiums will be collected through payroll deduction. If the premium exceeds the amount of payroll available, the balance of the premium payments are due on the first of every month. If the first falls on a weekend or holiday, payment is due the following business day. If payment is not received on or before the first business day of the month, a \$10 late fee will be assessed. If payment is still not received by the first business day of the following month, insurance services will be terminated.

(3) Upon the completion of one full term of any Council member or Mayor, and after leaving office, such elected official may access health insurance under the same terms and conditions as all retired City of Fernley employees.

(4) Other than those benefits contained in Chapter 11, the Mayor and Council members are not entitled to any benefits or privileges beyond those to which any other City employee or member of the public would be entitled.

1.11.03: RULES AND PROCEDURES OF FERNLEY CITY COUNCIL:

(A) RULES OF PROCEDURE:

(1) 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.

(2) Pursuant to NRS 266.240 Fernley City Council (herein referred to as "Council") may determine its own rules of procedure. As such, the Fernley City Council may punish its members for disorderly conduct, as defined by resolution, and with the concurrence of two-thirds of the members of the City Council, may expel a member for cause, as defined by resolution.

(3) It is critical that the Council be informed and updated regarding the status of potential or current litigation. Information presented to the Council during a closed litigation session and which is provided by any attorney representing the City of Fernley is considered confidential attorney-client communication. Accordingly, it shall be a misdemeanor to disclose to any other person any information which is provided in a closed litigation session, unless such disclosure is required by court order, or with approval of the City Attorney.

(4) Rules of Decorum shall be adopted by Resolution.

(5) Rules of Parliamentary Procedure shall be adopted 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 date, time and/or place of a regular meeting may be canceled or changed 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 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.

(C) AGENDA:

(1) The agenda process shall be adopted by Resolution. (Ord. 2013-004)

(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 three 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 Mayor, or the Mayor's designee shall take the roll of the Council members, and the names of those present shall be entered in the minutes. Electronic attendance at meetings by Council members will be permitted, with the prior approval of the Mayor. When electronic attendance 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.

Roll Call will be placed as an item on the Agenda for every Council meeting. If a Council member was 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.

(G) ATTENDANCE:

(1) This Attendance policy, 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 absence 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 the City of Fernley personnel policies, 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 agendaized. 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.

(10) This section shall not limit or define any other statutory procedure governing discipline.

(ORD 2016-015)