

TITLE 3: BUSINESS LICENSE REGULATIONS

CHAPTER 1: GENERAL BUSINESS LICENSE PROVISIONS

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

ADVERTISE: The act or practice of calling public attention to one's products or services, by paid or non-paid announcements in newspapers or magazines, over radio, television, internet, social media, billboards etc.in attempt to gain business within the City of Fernley.

ANIMAL BOARDING: If permitted by Fernley Development Code, a business that allows owners to drop their pets off for a specified period of time in exchange for payment.

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

AUTOPAWN: a pawnbroker who loans money on the security of any vehicle or other transportation device.

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 in an attempt and with the intent to gain business for profit or having conducted business within the City of Fernley. Including, but 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.
- (C) Business includes: if leased or rented or offered for rent or lease any of the following:
 - a. non-residential office unit or units,
 - b. industrial warehouses,
 - c. 4 or more single family dwelling units
 - d. multi-family dwelling units
- (D) Anyone who has a contract with the City of Fernley, other than a contract for employment.

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 or a business whose primary purpose is to create or produce motion pictures. Tax exempt, non-profit organizations, and businesses deemed exempt from a State business license are required to register the entity with the City licensing department.

CHECK CASHING SERVICE/PAYDAY LOAN SERVICE: As defined by the current version of NRS 604A.030, "Check-cashing service" means any person engaged in the business of cashing checks for a fee, service charge or other consideration.

CHILD CARE FACILITY, includes Day Care Center: As defined by NRS 432A.024 (the current version of NRS 432A.024 shall govern) "Child care facility" is defined as follows:

1. "Child care facility" means:
 - a. An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;
 - b. An on-site child care facility; as defined in NRS 432A.0275
 - c. A child care institution; as defined in NRS 432A.0245 or
 - d. An outdoor youth program; as defined as NRS 432A.028
 - e. Day care center, as defined by the current version of Fernley Development Code, Zoning:
 - i. Day Care Center, large: a facility which provides less than 24-hour care or supervision for 5 or more children who are not related by blood, marriage, or adoption to the owner, operator, or manager, whether such facility operates day or night, with or without compensation for such care, and with or without stated education purpose.
 - ii. Day Care Center, small: a facility which provides less than 24-hour care or supervision of 4 or fewer children who are not related by blood, marriage, or adoption to the owner, operator, or manager, whether such facility operates day or night, with or without compensation for such care, and with or without stated educational purpose.
2. "Child care facility" does not include:
 - a. The home of a natural parent or guardian, foster home as defined in NRS 424.014 or maternity home;
 - 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 for not more than four (4) weeks if the person who provides the care does not regularly engage in that activity;
- d. A location at which an out-of-school-time program is operated; as defined in NRS 432A.027.

A seasonal or temporary recreation program; as defined in NRS 432A.029 or an out-of-school recreation program; as defined in NRS 432A.0277CITY: The City of Fernley, a political subdivision of the State of Nevada.

COMMERCIAL BUSINESS: a business or individual, with a physical address within the City of Fernley, who provides a service or sells physical products as an industrial, retail or commercial business office within City limits with the intent and in an attempt to gain business in the City of Fernley.

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

COMMERCIAL RENTALS: Any nonresidential office unit(s), leased out or rented out. Including industrial properties and warehouses.

CONTRACTOR: As defined by NRS 624.020. (The current version of NRS 624.020 shall govern):

1. "Contractor" is synonymous with "builder.
2. A contractor is any person, except a registered architect or a licensed professional engineer, acting solely in a professional capacity, who in any capacity other than as the employee of another with wages as the sole compensation, undertakes to, offers to undertake to, purports to have the capacity to undertake to, or submits a bid to, or does himself or herself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. Evidence of the securing of any permit from a governmental agency or the employment of any person on a construction project must be accepted by the Board or any court of this State as prima facie evidence that the person securing that permit or employing any person on a construction project is acting in the capacity of a contractor pursuant to the provisions of this chapter.
3. A contractor includes a subcontractor or specialty contractor, but does not include anyone who merely furnishes materials or supplies without fabricating them into, or consuming them in the performance of, the work of a contractor.
4. A contractor includes a construction manager who performs management and counseling services on a construction project for a professional fee.
5. A contractor does not include an owner of a planned unit development who enters into one or more oral or written agreements with one or more general building contractors or general engineering contractors to construct a work of improvement in the planned unit development if the general building contractors or general

engineering contractors are licensed pursuant to this chapter and contract with the owner of the planned unit development to construct the entire work of improvement.

CORPORATION: A corporation is a company or group of people authorized to act as a single entity (legally a person) and recognized as such in law.

COTTAGE FOOD OPERATIONS:

1. As used in this section, as defined in the current version of NRS 446.866:
 - a. "Cottage food operation" means a natural person who manufactures or prepares food items in his or her private home or, if allowed by the health authority, in the kitchen of a fraternal or social clubhouse, a school or a religious, charitable or other nonprofit organization, for sale to a natural person for consumption and whose gross sales of such food items are not more than \$35,000 per calendar year.
 - b. "Food item" means:
 - i. Nuts and nut mixes;
 - ii. Candies;
 - iii. Jams, jellies and preserves;
 - iv. Vinegar and flavored vinegar;
 - v. Dry herbs and seasoning mixes;
 - vi. Dried fruits;
 - vii. Cereals, trail mixes and granola;
 - viii. Popcorn and popcorn balls; or
 - ix. Baked goods that:
 1. Are not potentially hazardous foods;
 2. Do not contain cream, uncooked egg, custard, meringue or cream cheese frosting or garnishes; andDo not require time or temperature controls for food safety.

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 Clerk's Office.

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.

EXEMPTED BUSINESSES: businesses that are required to register with the City but are exempt from paying business license fees.

FARM TO FORK EVENTS: As defined by NRS 446.868. (The current version of NRS 446.868 shall govern):

1. Except as otherwise provided in subsection 3, a farm is not a “food establishment” for purposes of holding a farm-to-fork event provided that
 - a. Any poultry and meat from a rabbit that is served at the farm-to-fork event is raised and prepared on the farm and is butchered and processed on the farm pursuant to the requirements of chapter 583 of NRS; and
 - b. Any other food item that is served at the farm-to-fork event, including, without limitation, salads, side dishes and desserts, are prepared on the farm from ingredients that are substantially produced on the farm.
2. A farm which holds a farm-to-fork event shall, before a guest consumes any food, provide each guest with a notice which states that no inspection was conducted by a state or local health department of the farm or the food to be consumed, except as otherwise provided in subsection 1.
3. A farm which holds more than two events in any month that would otherwise qualify as farm-to-fork events becomes a food establishment for the remainder of that calendar year subject to all the requirements of this chapter and any regulations adopted pursuant thereto concerning food establishments.

FINANCIAL INSTITUTIONS: Any business engaged in the banking business, savings, and loan, credit union or lending institution. This definition does not include short-term loans or payday loans.

FIREARMS BUSINESS: a person or business who receives compensation for engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, including but not limited to: manufacture, sales, trade, transfer agent, gunsmith, manufacture, repair or distribution of firearms and other similar types of conduct.

FLEA MARKET OPERATOR: Any person, firm or corporation, whether as owner, agent, consignee, or employee, whether a resident of the city, or not, who leases, licenses with or without charge, any premises or portion of any premises, to any merchant as a normal business activity.

FRANCHISE as it pertains to this Title: A privilege conferred by the City to a business for the use of the municipality’s public right-of-way. Including but not limited to electric, gas, telephone, and trash service providers.

GARAGE: As defined by NRS 487.540. (The current version of NRS 487.540 shall govern). “Garage” means a business establishment, sole proprietorship, firm, corporation, association or other legal entity that performs any of the following services on motor vehicles.

1. Repair or replacement of the
 - a. Engine;
 - b. Brake system;
 - c. Transmission system;

- d. Drivetrain system;
- e. Heating and air-conditioning system;
- f. Cooling system;
- g. Muffler and exhaust system;
- h. Electrical system;
- i. Electrical charging system; or
- j. Fuel injection or carburetion system;
- k. Engine tune up;
- l. Diagnostic testing;
- m. Alignment; or
- n. Oil change and lubrication.

Garage” does not include a business establishment, sole proprietorship, firm, corporation, association or other legal entity that does not perform services on motor vehicles for members of the general public.

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" “estate 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 RECEIPTS: As defined by NRS 372.025. (The current version of NRS 372.025 shall govern) “Gross receipts”:

1. “Gross receipts” means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:
 - a. The cost of the property sold. However, in accordance with such rules and regulations as the Tax Commission may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold the property before making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.
 - b. The cost of the materials used, labor or service cost, interest paid, losses or any other expense.
 - c. The cost of transportation of the property before its sale to the purchaser.
2. The total amount of the sale or lease or rental price includes all of the following: Any services that are a part of the sale.
 - a. All receipts, cash, credits and property of any kind

- b. Any amount for which credit is allowed by the seller to the purchaser.
3. "Gross receipts" does not include any of the following:
- a. Cash discounts allowed and taken on sales.
 - b. The sale price of property returned by customers when the full sale price is refunded either in cash or credit, but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.
 - c. The price received for labor or services used in installing or applying the property sold.
 - d. The amount of any tax, not including any manufacturers' or importers' excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.
 - e. The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.
4. For purposes of the sales tax, if the retailers establish to the satisfaction of the Tax Commission that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

HANDYMAN: A person who performs minor work, repair, or property maintenance, the value of which is less than \$1,000, including labor and materials. This type of work includes but is not limited to: construction clean up, janitorial, window cleaning, and lawn maintenance. Trash hauling is prohibited under this definition.

HOBBY/CRAFTER BUSINESS: Any activity conducted as a hobby, or to supplement one's income, if the gross income derived from such activity does not exceed (\$5,000) per year. Excludes firearms businesses.

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

HOME OCCUPATION BUSINESS: Also referred to as home-based business, a person, excluding contractors, conducting business out of their residence and whose business complies with the home occupation regulations of the City of Fernley Development Code.

INDUSTRIAL: Any intense manufacturing operation or industrial use, including but not limited to batch plants, tank farms, refineries, paint manufacturing, processing or manufacturing of products which utilize explosive or noxious substances.

JUNKYARD/DISMANTLING: Storage, repair or dismantling of junk or wrecked vehicles, RV's, boats, motorcycles, or commercial vehicles, unless otherwise defined in Fernley Development Code.

KENNEL:

1. Commercial: Any place of business where dogs, cats, and other domestic (non-farm) animals for boarding, breeding, training grooming, treating, sale or other commercial purpose with the exception of veterinary clinics or pet shops, unless otherwise defined in the Fernley Development Code.
2. Residential Breeder/Kennel: If permitted by Fernley Development Code, any enclosure, building, structure, lot or area at a residence where more than three (3) dogs are kept, harbored or maintained for the intent to sell or collection of a re-homing fee. Minimum parcel size in rural residential areas is 5 acres. Residential Breeders are allowed one litter per adult female dog every two (2) years.

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

LODGING: A temporary place to stay for a fee; including but not limited to: hotel, motel, inn, bed & breakfast, RV Park.

MANUFACTURED/MOBILE HOME PARK: As defined in the current version of the Fernley Development Code, is a parcel of land upon which two or more mobile or manufactured homes have been set for occupancy, not on individual parcels of land.

MOBILE VENDOR: Any person, including an employee or agent of another, who sells or offers to sell food, beverages, goods, services, or merchandise from a motor vehicle, trailer or other mobile unit.

MULTI-FAMILY DWELLING: A building or buildings which are occupied or are arranged, designed, and intended to contain more than one dwelling unit, but not including hotels, motels, boarding houses or otherwise provided accessory dwellings.

- a. Includes but is not limited to, duplex, tri-plex, four-plex units, apartments, townhouses, and condominiums.

NON-PROFIT OR CHARITABLE ORGANIZATION: As defined by NRS 82.021. (The current version of NRS 82.021 shall govern) "Corporation for public benefit" is a corporation formed or existing pursuant to this chapter that:

1. Is recognized as exempt under section 501(c)(3) of the Internal Revenue Code in effect on October 1, 1991, future amendments to that section and the corresponding provisions of future internal revenue laws; or
2. Is organized for a public or charitable purpose and which upon dissolution must distribute its assets to the United States, a state, or a person which is recognized as exempt under section 501(c)(3) of the Internal Revenue Code as amended.

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) (3), including but not limited to

organizations operated for religious, charitable, scientific, literary, educational, or fraternal purposes.

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

PAWNBROKER: As defined by NRS 646.010, (The current version of NRS 646.010 shall govern) “Pawnbrokers”: a person engaged, in whole or in part, in the business of loaning money on the security of pledges, deposits or other secured transactions in personal property. Pawnbrokers are allowed to buy and sell new and used items.

PEDDLER OR SOLICITOR: Any individual, regardless of whether a resident of the City, traveling by foot, automobile, motor vehicle, or any other type of conveyance, from place to place, from house to house, from street to street, from door to door, attempting to take orders for goods or services or distributing, disseminating or gathering information 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.

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. Employees of licensed professionals or contractors are not required to obtain a City of Fernley business license.

1. **Office Professional:** As defined in the current version of the Fernley Development Code, includes but is not limited to physicians, dentists, lawyers, real estate sales, architects, engineers, and accounts.
2. **Personal Service Professional:** As defined in the current version of the Fernley Development Code, includes but is not limited to cosmetologists, barbers, photographers, dry cleaners, and travel agents.

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

RECREATIONAL VEHICLE PARK: A recreational vehicle park where travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks or buses, etc. park temporarily.

RESIDENTIAL RENTAL DWELLING UNIT OR UNITS/RESIDENTIAL LANDLORD: Includes, but not limited to:

1. Single-family dwelling unit or units
2. Multi-family dwelling units or units

RESTAURANT: As defined in the current version of the Fernley Development Code, an establishment for the sale and consumption of food and beverages on the premises, which may include a drive-through service.

RETAIL SALES, As defined by NRS 372.050. (The current version of NRS 372.050 shall govern): “Retail sale” or “sale at retail” means a sale for any purpose other than resale in the regular course of business of tangible personal property.

The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State, is a retail sale in this State by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

SEASONAL SALES LOT: A parcel temporarily used, four (4) times per year or less, for the sale of seasonal or holiday items, including Christmas trees, pumpkins, produce stands, flea market, or farmers market.

SECONDHAND DEALER: anyone who engages in the business of buying, selling or exchanging goods that are previously owned or recycled. This definition does not pertain to sales as defined under “Garage Sale” in this Title.

SEXUALLY ORIENTED BUSINESS: Any business, if permitted by Fernley Development Code, that offers services, materials, goods, or products which are characterized by an emphasis on matter depicting, describing, or relating to nude or semi-nude persons or sexual activities between persons or observation thereof. These businesses include, but are not limited to topless bars, escort call out, and adult movie theaters, any business having a portion of its goods for sale, products which replicate or are designed to simulate “specified anatomical areas”, and sexual novelty stores.

SINGLE-FAMILY DWELLING UNITS: A single detached building which is occupied by not more than one family, and which contains not more than one dwelling unit.

SOLE PROPRIETOR: As defined by NRS 617.145. (The current version of NRS 617.145 shall govern) “Sole proprietor” means a self-employed owner of an unincorporated business.

SPECIAL EVENT: Any planned gathering of persons which occupies any part of a City street, park or other City property and which hinders the general public in the ordinary and usual use of such property. Special event includes but is not limited to community celebrations, parades, car shows, and commercial food events such as farmers market, block parties, festivals, sporting events, or music events.

SPECIALTY LICENSE: A business license issued for a Commercial business that requires extraordinary use of City of Fernley personnel to manage the license. Included but not limited to:

1. Auto pawn
2. Sexually oriented businesses
3. Check cashing service
4. Secondhand dealers
5. Pawnbrokers

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.

TEMPORARY MERCHANT/VENDOR: any person who either as principal or agent engages in a temporary or transient business either in one locality or in traveling from place to place buying or selling goods, wares, or merchandise.

THEATER: As defined in the current version of the Fernley Development Code:

1. Indoor Theater: a facility for showing motion pictures, videos, or for staging theatrical performances to an audience, inside an enclosed structure, excluding sexually oriented/adult theaters.
2. Outdoor Theater: a facility for outdoor performances where the audience views the production from automobiles or while seated outside, excluding sexually oriented/adult theaters.

TITLE LOAN: As defined by the current version of NRS 604A.105. (The current version of NRS 604A.105 shall govern) Title loan means a loan made to a customer pursuant to a loan agreement which, under its original terms: Charges an annual percentage rate of more than 35 percent; and requires the customer to secure the loan by either:

- (1) Giving possession of the title to a vehicle legally owned by the customer to the licensee or any agent, affiliate or subsidiary of the licensee; or
- (2) Perfecting a security interest in the vehicle by having the name of the licensee or any agent, affiliate or subsidiary of the licensee noted on the title as a lienholder.

The term does not include a loan which creates a purchase-money security interest in a vehicle or the refinancing of any such loan.

TRAVELING SHOW/CARNIVAL: Entertainers who go from place to place performing a variety of acts, wild animal routines and physical skills, games, and amusement rides or similar type conduct.

VENDOR: A person or business who sells products or services.

WAREHOUSE: a commercial or industrial building used for storage or manufacture of goods.

Additional definitions relating to businesses may be referenced in the City of Fernley Development Code and Nevada Revised Statute.

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

(A) Except as exempted by the provisions of this Title, any business, commercial enterprise, trade, occupation, calling, profession, vocation, or activity engaged in, conducted, carried on by any person, his agent or employee in an attempt and with the intent to gain business for profit or having conducted business within the City of Fernley, must first obtain a business license from the City authorizing that business and shall comply with all applicable provisions of this Title.

(B) ACTIVITIES EXEMPT FROM LICENSE REQUIREMENT:

1. Any private individual(s) who has no more than three (3) garage/yard sales per year;
2. Any business that is specifically regulated under a separate Chapter of this Title which exempts the business from the provisions of this Chapter.
3. Any person who owns less than four (4) residential rental units.
4. Businesses located outside of the City that are hired by a licensed business or government agency for seminars or training of their employees.
5. Personal care activities of any person independently engaged as a personal care assistant as defined by NRS 449.794.
6. Activities of any federal or Nevada governmental quasi-governmental entity acting in its governmental capacity.
7. Wages earned as an employee.
8. Cottage Food operations
9. Farm to Fork events
10. 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) (3), including but not limited to organizations operated for religious, charitable, scientific, literary, educational, or fraternal purposes.

C. ACTIVITIES REQUIRED TO SUBMIT ANNUAL BUSINESS REGISTRATION, FEES WAIVED:

1. 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) (3), including but not limited to organizations operated for charitable, scientific, literary, educational, or fraternal purposes. To obtain exemption pursuant to this section,

a tax-exempt entity must provide a current copy of its letter of determination from the Internal Revenue Service. The exemption from the requirement to obtain a business license or permit does not relieve a tax-exempt entity from the obligation to obtain a tax-exempt activity license or payment of any applicable fee for inspections by any City department.

2. Any person who transacts or conducts business as part of a permitted special event pursuant to Fernley Municipal Code and is properly permitted for that special event as a “vendor” as defined in Section 3.01.02 is exempt from the requirement of obtaining a business license during and for the special event only.
3. Hobby Crafter whose annual gross receipts are less than \$5,000.

The above listed activities, although required to register with the city, will not be charged an annual license fee.

(D) STATE AND OTHER LICENSES REQUIRED: Any business applying for or renewing 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.

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;
- (5) Sufficient information to calculate fees under this Title, including but not limited to a declaration of gross receipts for the business;
- (6) The applicant shall produce a legitimate, not expired, photographic driver’s license, State issued identification card, or United States identification such as passport or military identification.
- (7) The application is to be signed by the applicant, a natural person, or in the case of an association or partnership, a partner or managing member with authority to bind the association or partnership; in the case of a corporation or limited liability company, an executive officer or some person specifically authorized by the entity to sign the application, to which must be attached the written evidence of the authority.
- (8) Background investigation if required for the license type.
- (9) Inspector, Public Safety officer, and/or City Planner signatures if required for license type.

(B) All license fees deposited or submitted upon application are nonrefundable unless the chief license officer or his designee authorizes a refund based upon equitable principles.

(C) All information and financial statements provided by the applicant are subject to audit, inspection, and verification by authorized City personnel.

(D) If a business is discontinued the licensee shall, within 10 business days, notify and file with the licensing department, a closing statement of gross receipts and shall pay any amount due in excess of the amount last paid.

(E) No statement or affidavit filed in connection with an application for a license or for renewal of a license is binding upon the City or upon any officer thereof as to the matters therein set forth, and does not prejudice the right of the City to recover any correct amount that may be ascertained to be due from such person.

3.01.05: REVIEW AND APPROVAL PROCESS:

(A) An application for license may be referred to the appropriate City department(s) for review and investigation.

1. The city license office shall review the recommendations of all the applicable departments and decide whether to approve or deny the license. The city license office thereafter shall either place the license application on a City Council agenda for approval or notify the applicant of denial. The denial notice shall include the reason for such denial, in accordance with its decision. Any applicant that is denied a license shall be notified of the reason for the denial and the option of appealing the decision in accordance with the appeal procedures contained in this Title;

(B) BACKGROUND INVESTIGATIONS (WHEN REQUIRED)

1. Every person submitting an application for a license pursuant to this section is subject to a background investigation to determine suitability for the license or permit. A Federal Bureau of investigations fingerprint-based inquiry must be conducted prior to the issuance of any license or work permit set forth in subsection.
2. An applicant for any of the following business licenses or permits shall comply with the provisions of this section and any other FBI or law enforcement requirements necessary to obtain a FBI nationwide background check:

- a. Auto Pawn
- b. Sexually Oriented Businesses
- c. Pawnbrokers
- d. Check Cashing Services/Payday Loan Services
- e. Secondhand Dealers
- f. Liquor License
- g. Day Care
- h. Solicitor Permit
- i. Gaming

3. No license or work permit may be issued until the prescribed license or permit fee, and any fingerprint and investigation fee, has been paid to an authorized fingerprint agent, law enforcement agency or City staff.
 4. As defined by NRS 239B.010(1)(a) and P.L. 92-544 (the current version of NRS 239B.010(1)(a) and P.L. 92-544 shall govern): each applicant for a City business license or work permit set forth in this section shall provide a full set of his or her fingerprints to an authorized fingerprint agent as a condition of issuance of the business license or work permit. Each applicant shall also provide all necessary information to the authorized fingerprint agent in order to complete the fingerprint background process.
 5. The authorized fingerprint agent will submit the fingerprints of an applicant for a business license or permit set forth in section, plus any required fees and any information required for the background check, to the Central Repository for Nevada Records of Criminal History for a statewide background check and for submission by the Central Repository to the FBI to obtain the FBI nationwide
 6. Background check of the applicant. The Nevada Department of Public Safety is hereby authorized to exchange such fingerprint data with the FBI for purposes of the background check. The criminal history will be provided to the license department for evaluation and will not be shared with any other City staff.
 7. Failure of an applicant for a business license or permit set forth in this section to submit to full fingerprinting or to provide information required by this section is grounds for denial of the application.
- (C) Licenses will be placed on the first available City Council agenda for action;
- (D) 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 licensing department as conditions of the approval;
- (E) License shall be issued promptly, within ten (10) days of City Council approval.
- (F) For purposes of this section, and for all other purposes, a business license issued pursuant to this title is "expired" if it is not renewed by payment of all fees and penalties by the expiration date on the business license.
- (G) No license issued pursuant to this Title shall be construed to condone or permit the transaction of any business or the performance of any act which is otherwise contrary to the law.
- (H) Failure to provide documentation of gross receipts. No license shall be issued if documentation of annual gross receipts is not provided to the business license department.
- (I) No license shall be issued or renewed for the conduct of any business on any premises owing delinquent amounts of money to the City of Fernley for any purpose until such delinquent amounts of money, and penalties, if applicable, have been fully paid.

(J) Every license issued pursuant to this Title, whether or not explicitly so stated, is subject to all other provisions of federal, state, and local law with respect to licenses, permits, safety and environmental standards, prohibited acts or conditions and any other applicable provisions.

3.01.06: DUTIES OF LICENSEES

- (A) Comply with governing law. Ascertain and comply at all times with all laws and regulations applicable to such licensed businesses, including but not limited to, any changes in the Fernley Municipal Code that may be imposed after the issuance of a license.
- (B) Operate properly. Avoid all prohibited practices or conditions which do or may affect the public health, safety, morals, or welfare.
- (C) Supervise employees. Be responsible for the conduct of all employees or agents thereof if such conduct would violate the law if engaged in by the licensee.
- (D) Display license. Display all licenses issued pursuant to this Title in a conspicuous place at the licensed business. Every person having a license and not having a fixed place of business shall carry such license with him at all times while carrying on the business for which the license was issued and shall exhibit the license whenever requested by any authorized person. The issued and displayed license shall not be modified in any way that alters the content.
- (E) Valid only at location shown on license; adding or changing location requires a new license. A reprint fee may apply.
 - 1. A person may not change the location stated on the license or add a new location to an existing license. A new license is required for each new location and must be obtained in the manner provided for an initial application.
 - 2. If permitted by the licensing department, a license is transferred to a new location, the licensee shall not operate the business at the former location.
 - 3. Licenses are not transferable. If the business changes ownership, a new application, inspection, and applicable fees are required.
 - 4. A separate license is required for each establishment, branch, or location of a business.
- (F) Maintain records. Business owner is responsible for maintaining records of the business
 - 5. Keep such records as may be necessary to determine the amount of business license fees, or any other record required by this Title.
 - 6. Preserve such records for not less than four (4) years or until any proceedings under the Fernley Municipal Code pertaining to the business are concluded;
 - 7. Make records available for inspection by the City upon demand at reasonable times,
- (G) Permit inspection or audit. Permit reasonable inspections of the business and examination of its books by the City and all authorized personnel.

- (H) Notify of changes. Assure that a current and correct name, business address, business phone number, each business principal phone number, and business mailing address are on file with the City. Whenever a business address changes, the licensee must notify the license office a minimum of five (5) business days prior to the date the new business location will be used to conduct business. Whenever the name of the business changes the licensee shall notify the City in writing within 10 business days of such a change and provide the City with proof of the name change and update license information.
- (I) Cease business. Upon expiration, revocation, or suspension the licensee shall immediately cease conducting business.

3.01.07 UNLAWFUL BUSINESS ACTIVITY. Includes but is not limited to:

- (A) It is unlawful for any person to:
 - i. Commence, advertise, transact, conduct, or engage in any business in the City without a valid, unexpired license issued pursuant to this Title;
 - ii. Commence, advertise, transact, conduct, or engage in any business in the City if the business license has expired; or
 - iii. Cause, encourage, allow or permit another on that person's behalf to commence, advertise, transact, conduct, or engage in any business in the City without a valid, unexpired license issued pursuant to this title;

3.01.08: QUARTERLY PAYMENTS (IF PERMITTED)

- (A) Businesses whose annual business license fees exceed \$10,000 per fiscal year may request to pay said fees to the licensing department quarterly.
- (B) A written request for permission to pay quarterly must be submitted to the licensing department upon new business license application or no less than 30 days prior to the expiration date on the business license for renewals.
- (C) The licensing department will review the request and respond in writing within 10 business days, either approving or denying the request for quarterly payments.
- (D) Upon approval of the request, quarterly payments will be made to the licensing department as follows:
 - 1. 25 percent of the annual gross receipts of the business paid no later than the 30th day following the end of each quarter for four (4) quarters of the same fiscal year.
- (E) Quarterly payment request will be cancelled if any one (1) payment is past due.

3.01.09: LICENSE FEE/TAX LIENS:

- (A) License Fee/Tax—Liens on property where located; enforcement.
 - 1. Any license fee based on any business within the City of Fernley under the provisions of this Title of the Fernley Municipal Code shall constitute a lien upon the real and personal property of the business upon which the fee was levied and upon the real and personal property

which the business is conducted until the fee is paid in full. For the purpose of this section, any general or subcontractor performing work in the City, and whose business is located in city limits, for which a license is required shall be conducting his business at any premises in the City where he is performing work for which a license is required by this Title.

(B) The lien shall be enforced in the following manner:

1. By recording in the office of the Lyon County Recorder, within 90 days following the date on which such fees became delinquent, a notice of the tax lien containing the following:
 - i. The amount of fees/tax due and the appropriate year;
 - ii. The name of the record owner of the property;
 - iii. A description of the property sufficient for identification;
 - iv. A verification by the oath of the Chief license officer of the City of Fernley, and

(C) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within two (2) years after the date of recording of the notice of the fee/tax lien, and accompanied by appropriate notice to other lienholders.

3.01.10: INSPECTIONS

(A) Inspection of licensed businesses:

1. No person shall refuse entry to any City inspector attempting to enter any premises for the purpose of inspection, if such entry is attempted during normal business hours or during reasonable hours after business hours when there are employees on the premises to let the inspector in. Such entry shall be permitted not only to areas open to the public, but also to all other areas, provided that no employee shall be required to accompany any inspector in any area that the employee deems to be dangerous.
2. It is the policy of the City that, immediately upon arriving at the premises to be inspected, the City inspector ordinarily will identify himself/herself to an employee on the premises, showing identification if the employee is not acquainted with the inspector. If there is no employee at the scene, the inspector may enter any area that is open to the public at the time without identifying himself/herself. A law enforcement officer or any City employee making lawful investigation requiring a delay in identification need not identify himself/herself immediately, provided that no person shall be required to admit any such unidentified person to any premises.
3. If any City inspector is not permitted to enter any place or any part of any premises for inspection, the inspector shall not use force but shall leave the premises and seek a search warrant or other appropriate court order to make entry possible. However, inspection of a closely regulated business may be required without a warrant.

4. No person and no business entity shall be required to disclose any trade secret to any City inspector. If there is a dispute between a City inspector and any person or business entity over whether any location or thing is exempt from inspection because it contains a trade secret, an attempt shall be made to settle matter by devising a way to open part or all of the area or device for inspection, with the trade secret information removed or covered. If the matter cannot be resolved, the City inspector shall not look at the place or item until and unless the City has obtained a court ruling permitting inspection of the item or place.
5. Failure to comply with sections A1-A4 may result in revocation of license.

3.01.11: 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.

1. All businesses must register their business with the licensing department, regardless of fees charged, and apply for exemption annually.

(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 gross receipts of the business.

1. The application, license, and renewal fees charged pursuant to this Title shall be contained in the fee schedule.

(C) All annual license fees under the provisions of this Title shall be due and payable on the expiration date of the license. Licensees are granted a (30) thirty-day grace period in which to renew licenses without being assessed a late penalty.

(D) Except as otherwise provided in this Title, every person who engages in business within the city shall pay a license fee as required by resolution or is exempt from payment pursuant to this Title.

(E) The applicant must pay inspection and processing fees imposed by city, county and state regulatory agencies for license review services. These fees are in addition to the license fee.

(F) Inspection fees and fees for permits issued by any City department, must be paid prior to the issuance or renewal of a business license. Regarding renewal of a

license, if such fees are not paid by the due date for payment of the business license fee (including the grace period), such fees are deemed to be delinquent and shall be added to the delinquent business license fee for purposes of calculating the penalty. A business license may not be renewed unless all such fees are paid.

(H) All fees required under this Title must be paid in lawful money of the United States of America on or before the expiration date of the license. There is a 30-day grace period beginning the day following the expiration date on the license. Late penalties will be assessed to the account after the 30th day following the expiration date of the license.

(I) If any license issued under the provisions of this Title has not been renewed through payment of the applicable license fee 30 days after the expiration date, a penalty equal to 25 percent of the delinquent license fee shall be assessed and must be added to the delinquent license fee. The delinquent license fees, including any permit and code enforcement fees, and any penalty must be paid prior to the renewal of such license.

(J) If any license issued under the provisions of this Title has not been renewed through payment of the applicable license fee within 60 days after the expiration date, a penalty equal to 50 percent of the delinquent license fee shall be assessed and must be added to the delinquent license fee. The delinquent license fee, any permit and code enforcement fees, and any penalty must be paid prior to the renewal of such license.

(K) A business license cannot be renewed after it becomes 75 days delinquent. In order to resume business, the licensee is required to submit a new application and pay new application and annual business license fees. All delinquent fees must be paid prior to application being submitted.

3.01.12 EXPIRED LICENSE

(A) APPEALS; PROCESS

1. Any person aggrieved by the imposition of the expired license penalty imposed by this title must first pay the penalty and then may submit a written appeal of the penalty to the city clerk within ten days after payment of the penalty. The written appeal must show good cause why the penalty should not be imposed or should be reduced. The city clerk shall review the appeal and issue a decision based on the written appeal to either uphold the penalty or reverse the penalty within 15 business days after receipt. If the decision is upheld by the City Clerk, the appellant may request a formal hearing by City Council within 10 business days after receiving the decision. If a formal hearing is requested, the licensing department will place the request for appeal on the next available City Council agenda. The department shall, at least ten days prior to the hearing, notify the appellant of the time, date and place of the hearing by personal service or by certified mail, return receipt requested, to the address provided by the appellant. The appellant may bring only the evidence presented previously to the

licensing department to support the appeal. Failure of the aggrieved person to appear at the hearing shall result in a denial of the appeal.

2. Within ten days after a hearing, the city clerk or designee shall notify the applicant in writing the decision of the city council. The decision of the city council is final.

3.01.13: POWER TO AUDIT

- (A) Records. Every holder of a business license issued pursuant to this title shall keep and maintain adequate records for the purpose of performing an audit to verify the accuracy of the business license fees paid and for assurance of compliance with other provisions of this title.
- (B) For the purposes of this title, "adequate records" means records which show, or may indicate, the gross receipts of the business and includes, but is not limited to, the following:
 1. Original or copies of all sales invoices and credit card receipts for a period of one year preceding the date of an audit;
 2. All cash receipts journals, financial statements, ledgers, copies of business license renewal forms and related documentation supporting calculations of gross receipts for the previous four years; and
 3. Income tax returns (Schedule C of 1040 Federal Tax Return for Sole Proprietorship; Form 1065 Federal Tax Return for Partnerships and LLC's; Form 1041 Fiduciary Income Tax Return and Form 1120 Federal Tax Return for Corporations) for the previous four tax years.

All records required to be kept and monitored pursuant to this section must be made available to the licensing officer or designee for the four-year period preceding an audit. The information received from a licensee under this section is hereby declared to be confidential and not a public record and is available only to city officials concerned with business licensing and revenue enforcement, to the city attorney in furtherance of prosecution under this title and to a court of competent jurisdiction in a criminal prosecution or civil action commenced under this title.

- (C) Audits. The licensing department with prior approval from the city manager may, for the purpose of ascertaining gross receipts or to verify the accuracy of any other information reported to the city, audit any information declared by a licensee in an application for license or renewal, any information presented in a hearing or appeal or any other documentation provided to the city. After reasonable notice to the proprietor, books and records of the licensee must be made available to the license department during business hours. In accordance with Chapter 364 of the NRS, any audit of the amount due from the business must not include any period for the licensing of the business ending more than four years before the date of the audit.

1. The procedures for the proprietor of the business to obtain a review of the results of an audit are as follows:

- a. The city will disclose the results of the audit to the proprietor, discuss any relevant issues that have not previously been resolved and attempt to resolve those issues.
- 2. If those issues are not resolved through compliance with paragraph 1:
 - a. The proprietor can prepare documentation of those issues challenging to disprove the findings and submit the documentation to the city clerk; and
The city clerk or designee shall:
 - i. Within seven days after receiving the documentation, acknowledge their receipt; and
 - ii. Within 30 days after receiving the documentation, respond to the proprietor with a decision.
- 3. If the proprietor wishes to appeal that decision, they must file an appeal within 10 days with the city clerk.
 - a. Within 5 days of the receipt of the appeal, the city clerk shall submit the documentation to the finance director; and
 - b. The finance director or designee shall, within 60 days after receipt of the documentation by the city clerk pursuant to subparagraph a, review the documentation and inform the proprietor of the decision regarding the appeal. The decision of the finance director is final.

- (D) If an audit is performed pursuant to the chapter:
 - 1. The proprietor must be given notice, in writing, of the amount of any interest or penalties to be paid as a result of the audit.
 - 2. In the event the audit finding reveal that the business failed to accurately declare or pay gross revenue to the city by ten percent or more, the audited business shall be required to reimburse the city for all expenses incurred for the audit, including, without limitation, consultants and other third-parties hired by the city to assist in the audit process
 - 3. The information received from the license under this section shall be confidential and available only to those city officials concerned with such matters.

(E) Misrepresentation

Any willful misrepresentation of material fact in any application or report required by this title, or required by any officer in the performance of his duties pursuant hereto, is a violation of this title and, in addition to the punishment provided herein, is grounds for denial of a license or for probation, suspension or revocation if a license has been issued.

3.01.14 INFORMATION CONFIDENTIAL

- (A) The gross receipts statements filed pursuant to the provisions of this chapter shall be deemed confidential in character and shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration of this chapter. It shall not be improper, however, to release the name, address and phone number of licensed businesses as well as the type of business and other general information which is unrelated to the business gross receipts.

- (B) Any officer or employee who willfully violates the provisions of this section shall be deemed guilty of a misdemeanor and may be punished as in this chapter provided, and such violation may also result in discipline up to and including termination.

3.01.15: TERM OF LICENSE, RENEWAL OF 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, quarterly or temporary 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.

B) RENEWAL OF LICENSE:

- (1) A licensee shall be required to pay the renewal fee and complete the renewal form.
- (2) 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.
- (3) The license officer may refuse to renew a business license, when it appears that any of the following circumstances exist:
 - a. A misrepresentation of a material fact has been made on the application;
 - b. The location of the proposed business substantially fails to meet requirements of the fire or building codes, or the zoning ordinance;
 - c. The applicant or any of its principals fails to satisfy any qualification or requirement imposed by this title or other local, state or federal laws or regulations that pertain to the particular business named on the application;
 - d. The proposed business is violating provisions of this code, or state or federal law;
 - e. The applicant has commenced operating the proposed business without obtaining a business license under circumstances indicating that the applicant intentionally failed or refused to obtain a business license;
 - f. The applicant or any principal has been convicted of a crime under any local state or federal law or regulation arising out of the operation of a similar business;
 - g. The applicant or any principal has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last 10 years;
 - h. The applicant or any principal suffers from a legal disability under state or federal laws;
 - i. The applicant has refused entry to or obstructed a city, county or state inspector authorized to make an inspection;

- j. The applicant or any of its principals is in default on any payments owed to the city; or
- k. The applicant has made a material and intentional underreporting of the gross revenues of the business.

3.01.16: MULTIPLE ENTERPRISES 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 department 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 business classification and/or gross receipts for the enterprises. This Section does not affect liquor, gaming, or any other licenses required by the City or County.

3.01.17: DENIAL, PROBATION, SUSPENSION, REVOCATION OF STANDARD BUSINESS LICENSE; GROUNDS; PROCEDURE; IMMEDIATE SUSPENSION; CEASE AND DESIST ORDERS: The provisions of this section are applicable to any license or permit issued or applied for, or pursuant to any Chapter of this Title. 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 city clerk or the Council. Good cause for denial of a license or permit shall include, but is 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 business named on the application;
 - (4) The applicant or any principal 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 ability of the applicant to conduct such a business;

- (5) The applicant or any principal 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 or any principal 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;
- (9) The applicant has made a material and intentional underreporting of the gross revenue of the business.

(B) PROBATION, SUSPENSION OR REVOCATION: Any business license issued under this Title may be placed on probation, suspended, or revoked for good cause by the City, after notice and opportunity to be heard as provided in this Title. Good cause for probation, suspension or revocation shall include, but is not limited to:

- (1) Failure to pay business license fees within thirty (30) 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) Refusal by the applicant, employees or agent to make the books and records of the business available for inspection by the licensing department designated appointee as required by this title.
- (9) The applicant has made a material and intentional underreporting of the gross revenue of the business.
- (10) Any other cause that the City through its Department or its Council finds to be just or equitable reason.

(C) PROBATION PROCEDURE: Following an investigation, the License Department may place a business on probation, under the following procedure:

- (1) The Department shall notify the business licensee of the violation in person or by certified mail. The notice shall contain the following information:
 - a) The name and address of the business licensee;
 - b) The violation which has occurred
 - c) The term of the probation is 12 months
 - d) The licensee has 10 days to appeal the decision in writing to City Council.

- (2) If the business licensee chooses to appeal the probation, the licensee has ten (10) business days from the date the notice was received to request a hearing before City Council.
- (3) If no other violations occur during the 12-month period, the probation will be cancelled.

(D) **SUSPENSION AND REVOCATION PROCEDURE:** The License Department may suspend the license, pending Council action on revocation, under the following procedures:

- (1) The Department shall notify the business licensee of the violation in person or by certified mail. The notice shall contain the following information:
 - (a) The name and address of the business licensee;
 - (b) The violation which has occurred;
- (2) The business licensee has five (5) days, excluding weekends and holidays, from the receipt of the notice to remedy the violation; and
- (3) If the business licensee fails to remedy the violation the business license will be suspended.
- (4) 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 and time regarding the intent to revoke the business license. The notice shall also inform the licensee that they have the right to present evidence in opposition regarding the revocation.
 - (e) This notice shall be served upon the business licensee at least ten (10) business days prior to the time specified for hearing by certified mail or personal service.

(E) **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 order of the city council shall be binding. The failure by the licensee to appear at the time of hearing and place designated for the hearing shall, in and of itself, constitute sufficient grounds for revocation of the license. There shall be no reopening or review of the proceedings by the Council except when it subsequently appears to the satisfaction of the city council that the licensee's failure to appear was due to matter beyond his/her control, and not through negligence on the part of licensee.

(F) NOTICE OF REVOCATION: If the Council revokes the license, the business licensee shall be served notice of revocation within ten (10) business days by certified mail or personal service 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.

(G) GROUNDS FOR IMMEDIATE SUSPENSION OF LICENSE

Any license issued pursuant to this title is subject to immediate suspension. The city clerk may immediately suspend a business license if the chief of police, fire chief, health inspector or the City of Fernley building official deems there is probable cause to believe that extraordinary circumstances have arisen which are an immediate threat to the public health, safety or welfare and that business operations pursuant to that license increase the level of that threat.

The license may be reinstated after all conditions warranting the suspension have ceased.

(H) CEASE AND DESIST ORDERS

1. The city clerk may issue a cease and desist order to any person who is transacting or conducting business in violation of Fernley Municipal Code.
2. A cease and desist order issued pursuant to this Title may be personally served on any owner, licensee, agent or employee of the business, either at the location of the business or at any other location in the City.
3. A cease and desist order may:
 - a. Inform the recipient that the business is in violation of FMC because it is being conducted without a valid business license or after a valid business license has expired.
 - b. Warn the recipient that each violation is a misdemeanor crime.
4. Any costs incurred by the city for personal service of a cease and desist order pursuant to this section shall be added to the business license fees and penalties must be paid prior to issuance or renewal of a license

(I) ENFORCEMENT:

- (1) Any person violating any of the provisions of this title or knowingly or intentionally misrepresenting to any officer or employee of the city any material fact in securing the license herein provided for is guilty of a misdemeanor and upon conviction thereof is punished as provided in Title One of the Fernley Municipal Code

3.01.18: WAIVER BY COUNCIL: Upon application to the Council, a business licensee may request that the Council waive any fees required on a business by this title.

3.01.19: PUBLIC UTILITIES:

All public utilities must obtain a business license and comply with all provision of this chapter.

(1) 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.

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 pharmacist 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 matters 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 agendaize 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 annual 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.

Chapter 5: Specialty Business License Regulations

3.05.01 PURPOSE AND SCOPE

This Chapter establishes the minimum procedural requirements for the City of Fernley to issue a Specialty business license, provides a basis to regulate entities which conduct these types of business in the City of Fernley, and shall be known as the Special Business License Regulations. This Chapter regulates those activities which are found by the City to require a higher demand of City services.

The provisions of this Chapter apply to all specialty businesses in the City. Nothing in this Chapter shall be deemed or construed to exempt any organization from complying with the provisions of any other ordinance.

No applicant for a Specialty license or permit has any right to such license or permit. Any license or permit issued pursuant to the provisions of this Chapter is a revocable privilege, and no holder acquires any vested right therein.

3.05.02 REGULATION OF SPECIALTY BUSINESSES

A specialty business is subject to regulations, and the license may be revoked for violation of the conditions of this chapter.

In conformity with the policy of this chapter, the following persons are declared not qualified to hold a license under the provisions of this chapter:

- (A) A person who has been convicted of a crime involving theft, fraud, dishonesty, receiving or possessing stolen property, any controlled substance violation whatsoever, or any sex offense;
- (B) A person whose license, issued pursuant to the provisions of this chapter, or those ordinances or statutes of any other agency lawfully engaged in the licensing or regulation of the business has been revoked for cause;
- (C) A and B are also grounds for denial of renewal of a business license.

3.05.03 LICENSE REQUIRED

It is unlawful for any person with in the City to engage in or conduct in any premise of the City, any Specialty business without first obtaining a Specialty business license.

3.05.04: APPLICATION AND SET UP FEES:

- (A) Upon the filing of an application for a business license, the applicant shall pay a nonrefundable application fee and nonrefundable set up fee. The application fee is paid regardless of whether the business license application is approved and is paid at the time the application is submitted to the licensing department. The

application fee is separate and distinct from the business license fee. The setup fee is paid upon approval of the business license and is separate 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 gross receipts of the business.

2. The application, license, and renewal fees charged pursuant to this Chapter shall be contained in the fee schedule.
3. The license fee for a specialty business license are based on gross receipts plus the assigned base fee, as outlined on the license fee schedule.

3.05.05 BACKGROUND INVESTIGATIONS: (REQUIRED)

(A) Every person submitting an application for a license pursuant to this section is subject to a background investigation to determine suitability for the license or permit. A Federal Bureau of investigations fingerprint-based inquiry must be conducted prior to the issuance of any license or work permit set forth in this chapter.

(B) Each principle owner or managing member of the business is required to obtain a background investigation pursuant to this chapter, at the time of application and every (5) five years following.

(C) An applicant for any of the following business licenses or permits shall comply with the provisions of this section and any other FBI or law enforcement requirements necessary to obtain a FBI nationwide background check:

(D) No license or work card may be issued until it has been approved and all fees have been paid and the license or card has been approved.

(E) Background check of the applicant. The Nevada Department of Public Safety is hereby authorized to exchange such fingerprint data with the FBI for purposes of the background check. The criminal history will be provided to the license department for evaluation and will not be shared with any other City staff.

(F) Failure of an applicant for a business license or permit set forth in this section to submit to full fingerprinting or to provide information required by this section is grounds for denial of the application.

3.05.06 REVIEW AND APPROVAL PROCESS:

- (A) An application for license may be referred to the appropriate City department(s) for review and investigation.
- (1) The city license office shall review the recommendations of all the applicable departments and decide whether to approve or deny the license. The city license office thereafter shall either place the license application on a City Council agenda for approval or notify the applicant of denial. The denial notice shall include the reason for such denial, in accordance with its decision. Any applicant that is denied a license shall be notified of the reason for the denial and the option of appealing the decision in accordance with the appeal procedures contained in this Chapter;

(B) ZONING AND PLANNING REVIEW

- (1) Locations permitted for sexually oriented businesses are regulated by Nevada Revised Statute Chapter 201 and Fernley Development Code, restricting their close proximity to established facilities such as, but not limited to, religious assemblies, parks, schools and residential areas. Licensees shall comply with these regulations.
- (2) Sexually oriented businesses are required to comply with the location restrictions as outlined in Nevada Revised Statute and Fernley Development Code.
- (3) It is unlawful for any business required to be licensed pursuant to this chapter to be operated or conducted, either in full or part time, from a residential location.
- (4) Prior to the issuance of any business license by the license department, the applicant must submit, on a form provided by the division, a request for required department signature inspections, to determine if the proposed business operation is in conformity with the requirements of the building, planning, public works, water, wastewater, fire and code enforcement departments and divisions. Upon submission of the business license application and request for required department signature inspections, the premises must be inspected by all designated departments and divisions.

3.05.07 DUTIES OF LICENSEE

- (C) Every licensee is responsible for the acts of his employees, agents and servants committed while on the licensed premises and during the course of employment

away from the licensed premises, and every licensee must accordingly use adequate care in the selection of his employees. In any licensing suspension, limitation or revocation proceedings, the fact that the licensee did not have actual knowledge of the events complained of is no defense, and every licensee hereunder accepts his license subject to said condition.

- (D) Each licensee shall not knowingly fail to report or conceals from the council a full disclosure of the names of all 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;

3.05.08 TRANSFER OF LICENSE

No license issued under this chapter shall be transferred or assigned to another person or place of business.

AUTOPAWNS AND PAWNBROKERS

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

AUTOPAWN: A pawnbroker who loans money on the security of any motor vehicle or other transportation device for which title or registration can be provided.

MOTOR VEHICLE: As defined by the current version of NRS 646.006 "Motor Vehicle" means any self-propelled vehicle that is used upon a highway, but not operated on rails, for the purpose of transporting persons or property. The term does not include electric personal assistive mobility devices.

PAWNBROKER: As defined by current version of NRS 646.010. Any person engaged, in whole or in part, in the business of loaning money on the security of pledges, deposits or other secured transactions in personal property, excluding autopawn.

3.05.09 RECORDS TO BE KEPT AND TRANSMITTED

(A) Every business licensed under this section shall maintain in the place of business a book or other permanent record in which must be legibly written in the English language, at the time of each purchase or receipt of property, a record thereof containing:

- (1) The date and time of the transaction.
- (2) The name or other identification of the person or employee conducting the transaction.
- (3) The name, age, residence address and general description of the person with whom the transaction is had.

(B) A thorough description of the property pawned, purchased or received. Where applicable, descriptions must include, but not be limited to:

- (1) General identification of the item, including type or category, material, size and weight;
- (2) Brand, make and model name or number;
- (3) Serial numbers, identifying marks, symbols or inscriptions, watch works numbers and owner-applied markings; and
- (4) Receipt numbers for the transaction, including pawn ticket numbers.
- (5) The amount of money loaned, advanced or paid for the property.
- (6) The person with whom a transaction is had, shall, at the time of the transaction, certify in writing that he or she has the legal right to pledge or sell the property.
- (7) The record and all goods received must at all times during the ordinary hours of business be open to the inspection of any peace officer.

3.05.10 REPORTS OF TRANSACTIONS

Every pawn licensee in the City shall, before 12pm of each and every day furnish in duplicate to the chief of police, a full, true and correct transcript of the record of all transactions had on the preceding day.

3.05.11 REMOVAL OF PLEDGED PROPERTY

(A) It is unlawful for any licensee under this chapter, including any clerk, agent or employee of a pawnbroker to remove any property received in pledge from the place of business after receipt of the property has been reported to the chief of police, unless the property is:

1. Redeemed by the owner; or
2. Released to the custody of a peace officer in the manner set forth in NRS 646.047.

3.05.12 PAWN TICKETS

- (A) Any auto pawn broker or pawnbroker doing business in the City shall furnish to the pledgor a printed pawn ticket
 - 1) Plainly numbered
 - 2) Containing the name of the pledgor,
 - 3) A description of the article or thing pawned or received,
 - 4) Date of receipt,
 - 5) The amount loaned,
 - 6) The time for redemption,
 - 7) Amount to be paid on redemption, and
 - 8) Name of the pledgee.
- (B) The printed pawn ticket shall be marked in such a manner that the amounts of principal and interest paid by the pledgor can be clearly designated.
- (C) Each payment shall be entered upon the receipt and shall designate how much of the payment is being credited to principal and how much to interest, with dates of the payments shown thereon.
- (D) The pawnbroker shall affix a tag to each article, or thing, upon which tag shall be inscribed a number of legible characters, the number shall correspond to the number on the pawn ticket,
- (E) The number shall also be entered in the records required to be kept by this chapter.
- (F) In the case of motor vehicles, the description must be marked model, color, year, and vehicle identification number of the particular vehicle.

3.05.13 PROPERTY REDEMPTION

All personal property including motor vehicles, placed in pawn, must be held for redemption by the pawnbroker for a least 90 days after the date of the pledge.

3.05.14 ADDITIONAL LICENSE REQUIRED TO USE MOTOR VEHICLE AS COLLATERAL FOR LOAN.

- (A) Pursuant to NRS 268.0973 If the city requires a license to engage in business as a pawnbroker, it shall also require an additional license if the pawnbroker engages in autopawn.

3.05.15 STORAGE OF MOTOR VEHICLES WHEN PAWNED.

- (A) Autopawn licensees shall provide and maintain at least one place of storage within the city limits, sufficient in size to handle the number of motor vehicles as outlined in the Fernley Development Code.
- (B) The vehicles shall be held at the place of storage for the same period of time that personal property must be held at the place of business and may only remove the motor vehicle under the same conditions that personal property may be removed. Motor vehicle storage shall be enclosed by a chain link fence or block

wall. Gates or doors for access to the area shall be kept closed and locked when the premises are not open for business.

- (C) A pawnbroker shall not charge more than \$3 per day for the storage of a motor vehicle which is collateral for a loan.

3.05.16 LIABILITY INSURANCE WHEN MOTOR VEHICLES ARE PAWNED

(A) licensees engaged in autopawn shall possess and maintain garage keeper's liability insurance in the amount of \$100,000 general (public) liability insurance in the amount of \$100,000 and collision insurance on the amount of \$15,000.

3.05.17 CLEAR CHAPTER REQUIRED FOR PAWNING MOTOR VEHICLE

(A) It is unlawful to pawn any motor vehicle on which there exists any lien, security interest or encumbrance of whatever nature or to pawn any motor vehicle if the person pawning said motor vehicle is not the legal owner thereof.

3.05.18 LICENSE PLATES TO BE REMOVED AT TIME OF MOTOR VEHICLE PAWN

(A) The license plates from any motor vehicle to be pawned must first be removed by or at the direction of the registered owner of the motor vehicle.

3.05.19 AUTOPAWN LICENSEES TO OBTAIN DEALER'S LICENSE FROM STATE OF NEVADA WHEN MOTOR VEHICLES ARE PAWNED.

(A) Autopawn licensees engaged in pawning motor vehicles must possess a dealer's license from the State of Nevada Department of Motor Vehicles and must fully comply with the requirements set for in NRS 482.318.

3.05.20 UNLAWFUL ACTS.

(A) Every pawn licensee, and every clerk, agent or employee of a licensee, is guilty of a misdemeanor if he or she violates any provision of this chapter including but not limited to:

- 1) Fails to make an entry of any material matter in his book or record kept as provided for in this chapter.
- 2) Makes any false entry in his book or record.
- 3) Obliterates, destroys or removes from his place of business the book or record.
- 4) Refuses to allow a prosecuting attorney or peace officer to inspect the book or record or any goods in his possession, during the ordinary hours of business.
- 5) Reports any material matter falsely to the chief of police.

- 6) Fails to report immediately to the chief of police the possession of any property which he/she may have good cause to believe has been lost or stolen together with the name of the owner, if known, and the date when and the name of the person from whom he received the property.
- 7) Removes or allows property to be removed from his/her place of business, except upon redemption by the owner thereof, or by the provisions in NRS 646.047.
- 8) Receives any property from any person under the age of eighteen years, any common drunkard, any habitual user of controlled substances, any habitual criminal, any person in an intoxicated condition, any known thief or receiver of stolen property, or any known associate of a thief or receiver of stolen property, whether the person is acting in his own behalf or as the agent of another.
- 9) Fails to hold personal property for redemption for at least ninety days after the date of pledge.
- 10) Charge or receive interest at a rate higher than outlined in NRS for money loaned on the security of personal property, exclusive of an initial charge not to exceed \$5.00.
- 11) Pawn or purchase any merchandise from any person under 18 years of age, unless the person has Chapter, free and clear, for the motor vehicle, or parts, to be purchased, except with the written consent or direction of the parent or guardian of such person. Said written permission shall be maintained as part of the records as specified in this chapter.

3.05.21 CHECK CASHING SERVICE/PAYDAY LOAN SERVICES

- (A) Regulations for check cashing services and payday loans, as well as deferred deposit loans are outlined in NRS 604A. These regulations include but are not limited to Regulation Z (Truth in Lending Act) and disclosure requirements.
- (B) All businesses operating as check cashing service, payday loan or deferred deposit service are required to obtain and maintain a license from the Nevada Commissioner of Financial Institutions. A licensee who fails to renew his/her State license may be subject to revocation of their City of Fernley business license under this Chapter.
 - (1) The Commissioner of Financial Institutions determines the approval or denial of the State application.

- (C) City business licenses issued under this chapter are subject to all State and Federal laws applicable to deferred deposit, check cashing and payday loan services.
- (D) Check cashing services include any person or enterprise engaged in the business of cashing checks for a fee or service charge.
- (E) Payday loan services include any person or enterprise engaged in the business of accepting a personal check drawn upon the account of the customer or other written authorization for electronic money transfer for a specified amount from the account of the customer, for a fee or service charge.
 - i. Deferred deposit, a type of payday loan, includes transactions pursuant to a loan agreement where a customer tenders a check drawn upon his/her draft account and the deferred deposit business operator provides the customer with money equal to the face value of the check, less any fees charged for the transaction. The deferred deposit business operator agrees, for a period of time specified in the contract, not to cash the check or execute an electronic transfer of money for the amount specified in the written authorization.
- (F) Licensees must comply with restrictions on location where licensee may conduct business as defined by the current version of NRS 604A.655. Licensees must comply with any restrictions outlined by Nevada Revised Statute and Fernley Development Code.
- (G) Exempt from this chapter (As defined by the current version of NRS 604A.250).
 - (1) Except as otherwise provided in the current version of NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage brokers, mortgage bankers, thrift companies or insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.
 - (2) A person who is primarily engaged in the retail sale of goods or services who:
 - (a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than \$2; and
 - (b) Does not hold himself or herself out as a check-cashing service.
 - (3) A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

- (4) A person who holds a non-restricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.
- (5) A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.
- (6) A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.
- (7) A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, high-interest loan service or Chapter loan service.
- (8) A real estate investment trust, as defined in 26 U.S.C. § 856.
- (9) An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.
- (10) An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.
- (11) A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.
- (12) Any firm or corporation:
 - (a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;
 - (b) Approved by the Federal National Mortgage Association as a seller or servicer; and
 - (c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.
- (13) A person who provides money for investment in loans secured by a lien on real property, on his or her own account.
- (14) A seller of real property who offers credit secured by a mortgage of the property sold.
- (15) A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high-interest loan service or Chapter loan service.

3.05.22 SECOND HAND DEALERS

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

- (B) COLLECTIBLE: Means an object of personal property that has special value primarily because of its unique characteristics and the high level of demand for the object.
- (C) DROP-OFF CENTER: Means a collection site where recyclable materials may be taken by persons and deposited into designated containers and may be subject to a franchise agreement.
- (D) JEWELRY: Means merchandise customarily kept in retail (including estates) jewelry stores for sale, including, but not limited to, precious and semiprecious stones; watches; clocks; rings; bracelets; articles made in whole or in part of gold, silver, platinum or other precious or semiprecious metal and, in addition thereto, shall also include collectibles and art objects.
- (E) RECYCLABLE MATERIALS: Defined in the current version of 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.
- (F) SECONDHAND DEALER: Means any person who engages in or conducts the business of buying, selling or exchanging old gold, old silver, platinum or articles of platinum, silverware, and secondhand jewelry or other precious metals, stones or household electronic devices and appliances.

This description also includes all secondhand dealers who handle, or deal in secondhand motor vehicles or trailers for the purpose of dismantling, wrecking, disassembling and selling the dismantled, wrecked or disassembled parts or accessories and who possess the appropriate State of Nevada, Department of Motor Vehicles dealers license. Establishments conducting the business of recyclables, or of a drop-off center, are included in this definition.

3.05.23 EXEMPTIONS

- (A) The following are not required to get a license under this section, but are required to register with the city and will not be charged an annual license fee.
- 1) All charitable organizations which are recognized as 501 (C) 3 are exempt from the provisions of this section.
- (B) The following will not be subject to the background investigation process but will be required to register with the department and pay the applicable fees.

- 1) All dealers of used books, clothing, musical instruments, sporting goods, or prerecorded media, household items such as furniture and linens; and the taking in of used items in on trade for store credit or the purchase of store merchandise from the requirement to obtain a secondhand dealers license.

3.05.24 LICENSING AS PAWNBROKER REQUIRED FOR CERTAIN TRANSACTIONS

- (A) A secondhand dealer who, after purchasing property from a customer, enters into an agreement to allow the customer to buy back the property must be licensed as a pawnbroker.

3.05.25 PURCHASE FROM MINORS AND JUVENILES

- (A) It is unlawful for any secondhand dealer, whether acting for himself as licensee, or whether by an employee or agent of the licensee, to purchase any secondhand merchandise as defined herein from any person under 18 years of age, unless the person has Chapter, free and clear, for the motor vehicle, or parts, to be purchased, except with the written consent or direction of the parent or guardian of such person. Said written permission shall be maintained as part of the records as specified in this chapter.

3.05.26 RECORDS AND REPORTS TO BE KEPT AND TRANSMITTED

- (B) Every business licensed under this Chapter shall maintain in the place of business a book or other permanent record in which must be legibly written in the English language, at the time of each purchase or receipt of property.
- (C) Every second hand dealer licensee in the City shall, before 12pm of each and every day furnish in duplicate to the chief of police, a full, true and correct transcript of the record of all transactions had on the preceding day.
- (D) Each record shall contain:
 - 1) The date and time of the transaction.
 - 2) The name or other identification of the person or employee conducting the transaction.
 - 3) The name, age, residence address, driver's license number and general description of the person with whom the transaction is had.
 - 4) If the transaction involves household furniture, the license number of the vehicle delivering each purchase.
 - 5) In the case of watches, the description must contain the name of the maker and the number of the works or the case. In the case of jewelry, all letters and marks inscribed on the jewelry must be included in the description symbols or inscriptions, watch works numbers and owner-applied markings
 - 6) The price paid

7) The record and all goods received must at all times during the ordinary hours of business be open to the inspection of any peace officer.

(E) The provisions of this section do not apply to any transaction which involves buying, selling or trading used books, clothing, periodicals, sound recordings, or coins which are not part of any jewelry.

(F) The records required to be kept per subsection A of this section are required to be kept and maintained on the premises for a minimum of three years from the date of original transaction.

3.05.27 LICENSEE RESPONSIBLE FOR THE ACTS OF EMPLOYEES.

Every licensee shall be responsible for the acts of his employees committed during the course and scope of employment. 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 hereunder accepts his license subject to said condition.

3.05.28 SEXUALLY ORIENTED BUSINESSES

Definitions:

(A) As outlined in this chapter, sexually oriented businesses include but are not limited to:

1. Adult bookstore, adult novelty business, or adult video store or a retail establishment having as a significant portion of its stock in trade in any one or more of the following:

- a. Books, film, digital video discs, compact discs, video cassettes, slides, magazines and other periodicals or other written, oral or visual representations that are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas; or
 - b. Products known generally as, but not limited to, adult novelties and gifts, instruments, devices, accessories or paraphernalia, including items designed or marketed primarily for sadomasochistic activity, that are characterized by an emphasis for use during sexual conduct or with specified anatomical areas.
2. Adult club, a public or private establishment, which may charge admission for entrance, that regularly features nude or topless entertainers, bottomless entertainers, strippers, exotic dancers, or other live performances that are distinguished or characterized by the exposure of specified anatomical areas or that advertises, or holds out to the public that adult entertainment is provided or advertises or implies that sensual or sexual entertainment is provided, and, that may operate in the manner of a tavern.
3. Adult motion picture theater, an enclosed building, or a portion thereof, used for presenting motion pictures, films, video cassette, compact disc or digital video disc recordings, slide photographs, or other motion or still pictures, that are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
4. Adult video arcade, any establishment, or any portion thereof, containing any manually operated, coin or slug operated, or electrically or electronically operated or controlled, still, motion picture, film, compact disc, digital video disc, or video cassette machines, projectors, players, or other image producing devices that are maintained to display images to one or more persons per machine or per viewing room at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
5. Brothel, any orderly room, structure, or building where prostitution occurs.
6. Escort, any person who, for any form of consideration or gratuity, dates, socializes, visits, consorts with or accompanies, or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement, or within any place of public or private resort or any business or commercial establishment or any private quarters.

7. Escort service, an individual or entity, which, for any form of consideration or gratuity, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.
8. Prostitute, a male or female person who for a fee, monetary consideration, or other thing of value engages in sexual intercourse, oral genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of another person.
9. Prostitution, engaging in sexual conduct with another person for a fee, monetary consideration or other value.
10. Sexual conduct and specified anatomical areas as used in this chapter means:
 - a. "Sexual conduct" includes the following:
 - i. The fondling or other touching of human genitals, pubic region, buttocks, or male or female breasts; Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy; Masturbation; Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.
11. Sexually oriented business, any business, if permitted by Fernley Development Code, that offers services, materials, goods, or products which are characterized by an emphasis on matter depicting, describing, or relating to nude or semi-nude or sexual activities between persons or observation thereof, Turkish baths, nude or semi-nude modeling studios, businesses using nude or semi-nude models in offering lingerie or intimate apparel for sale, sexual catharsis centers, sexual encounter establishments, bondage or discipline parlors, escort bureaus and introductory services or other similar type businesses, any business which utilizes or encourages sexual arousal, sexual gratification or sexual stimulation of a customer or prospective customer in connection with the sale or offering for sale of services, goods or materials. These businesses include but are not limited to unlicensed massage (State massage license).
 - a. This definition does not apply, nor shall it be interpreted to apply, to any business conducted, operated or employing licensed
 - b. chiropractors, physicians, physical therapists, massage therapists, psychologists, social workers or marriage family counselors when performing functions under or pursuant to their respective licenses.

12. These businesses include but are not limited to adult book stores, adult video stores, picture arcades showing adulating entertainment pictures, adult motion pictures, or other similar business.

13. Specified anatomical areas: human genitals, pubic region, buttocks, or male or female breasts.

14. Work card means the card issued by the chief of police Chief of Police to each employee and to each prostitute authorizing them to work at a licensed operation

(B) It is unlawful for any business governed by this section to allow a person under the age of 18 years in or on the premises.

(C) Licenses issued pursuant to this section are subject to all applicable State of Nevada laws, Lyon County Codes, and Fernley Municipal Codes.

(D) The terms, conditions and policies of other applicable ordinances are intended to be applied in conjunction with the enforcement of all other ordinances of the city designed for the protection of the public health, safety, morals and welfare. The fact that such ordinances are not specifically referred to in this chapter shall in no manner preclude their application to secondhand dealer licensees.

(E) The terms, conditions and requirements of this chapter are in addition to those imposed under Nevada Revised Statute Chapters 268, 604A, 646, 647.

3.05.29 ALCOHOL SALES OR CONSUMPTION AT SEXUALLY ORIENTED BUSINESS:

(A) Serving, selling, or otherwise providing alcoholic beverages at the following sexually oriented business is prohibited under this chapter:

- a. Adult bookstore, adult novelty business, or adult video store or a retail establishment.
- b. Adult motion picture theater
- c. Adult video arcade

3.05.30 LICENSEE'S AGREEMENT TO CONFORM TO LAW

(A) Acceptance of a specialty license by a licensee constitutes an agreement on the part of such licensee to be bound by all of the regulations of the city as the same are now, or may hereafter be amended or promulgated. It is the sole

responsibility of the licensee to keep himself informed of the content of all such rules and regulations, and ignorance therefore shall not excuse violations.

3.05.31 BROTHELS

(A) Health examinations for prostitutes

The licensed operation must comply with all State of Nevada Division of Health requirements and Nevada Revised Statutes with regard to medical and health examinations for prostitutes.

(B) Exams Required. Every prostitute working at a licensed operation is required to have a weekly medical examination by a medical doctor licensed to practice medicine in the state of Nevada or the doctor's duly qualified and supervised employee. Each medical examination must include testing to be submitted to a state licensed medical laboratory and must include:

1. Once each week, a culture to confirm the presence or absence of gonorrhea and testing to screen for the presence or absence of chlamydia;
2. Once every week, a licensed medical professional must perform an examination on each prostitute for lesions. If lesions are present on the individual, the health care professional must excuse the prostitute from work until the lesions have resolved and are no longer infectious with herpes simplex II virus;
3. Other medically required or approved tests deemed advisable by the examiner for determining whether the prostitute is afflicted with any infectious or contagious disease;
4. All medical examinations, pre-employment and post-employment, and tests must conform to the requirements of the State of Nevada, Division of Health, the NRS and the Nevada Administrative Code;
5. After performing an examination on a prostitute, the examining doctor may not issue a certificate if the person is found to be or suspected to be afflicted with a sexually transmitted infection or other contagious or infectious sexually transmitted disease ("STD"). The Chief of Police must be notified by the licensee of ineligibility of a prostitute to work; and

6. The cost of the required medical examination and tests must be paid by the prostitute directly to the medical providers.

(C) When a prostitute has completed the medical examination and tests required, the results of the tests must be forwarded to a state approved medical lab for review and approval.

(D) Certification of Work Eligibility--Approval and Denial.

1. After the state medical lab completes the required review of the medical examination and tests, and forwards the certificate of clearance to the brothel's license holder, the brothel must retain those results for review by the Chief of Police and must certify to the Chief of Police that the prostitute is eligible for a work card. The Chief of Police must be notified by the licensee if the state medical lab does not issue a certificate of clearance. Each medical certificate of clearance must specify the date of the examination and may be valid for seven days from the date of the certificate. The cost of this review and certification must be paid by the prostitute.

2. A person who has ever been denied a certificate by the State Health Department may not work as a prostitute in any licensed operation until that person has received and presented to the brothel a certificate of clearance from the state stating that the cause or causes which resulted in the denial of the certificate have been cured and that the person is now free of a sexually transmitted infection or other contagious or infectious sexually transmitted disease ("STD").

(E) Seizure of Work Card. Upon receiving information that a prostitute is afflicted with an infectious or contagious STD or has not obtained a current medical examination, or is no longer entitled to a work card, the Chief of Police must immediately seize any work card previously issued.

3.05.32 MAXIMUM NUMBER OF BROTHELS; MAXIMUM NUMBER OF PROSTITUTES; OTHER LICENSE CONDITIONS OR RESTRICTIONS

(A) The City Council may place limits, restrictions, and/or conditions on the brothel business license including but not limited to:

1. Limit the hours per day or per week that a licensed operation may be conducted;
2. Limit the type, signing and size of building in which a licensed operation may be conducted; and
3. Limit the number of prostitutes that work in an operation; maximum allowed at each brothel

(B) The City Council may impose restrictions pursuant to this section prior, during, or after issuance of license.

- a. The Chief of Police, Fire Chief, or any City department, County or State agency may make recommendations to City Council to place conditions on the business license.

(C) The maximum number of brothels allowed in the City at one time is limited to three (3).

(D) City Council may impose additional temporary restrictions by Resolution.

3.05.33 WORK CARD REGISTRATION REQUIRED.

(A) Any person working as an independent contractor or employed by a brothel is required to maintain a work card issued by the Chief of Police.

(B) A prostitute who has submitted an application to the Chief of Police but who has not yet received a medical clearance may remain on the premises of the brothel, segregated from any customer contact areas, for up to forty-eight hours as they complete the medical clearance and work card application process. It is the sole responsibility of the owner or general manager to ensure that all the prostitutes awaiting results and residing at the brothel do not engage in any type of sexual activity until the Chief of Police issues a work card.

(A) The Chief of Police may issue a revocable temporary work permit for up to one hundred twenty days after the applicant has submitted an application with proof of medical clearance and paid all required application fees.

(B) A work card may not be issued to anyone under 18 years of age.

(E) The Chief of Police or his designee will have the authority to deny or revoke the work card of a prostitute or any other employee who does not qualify under this chapter or who is found to be otherwise violating the Fernley Municipal Code or Nevada Revised Statute.

(F) The work card may be issued for not more than twelve months and must be renewed annually.

(G) All work cards are site specific, and must be renewed each time an employee changes places of work.

(H) All employees of any brothel in the City must maintain a current work card with the operator of a licensed brothel and the licensee is required to maintain a work card for each employee. The work card must be kept on premises and available for inspection at all times. A prostitute may change place of work between two licensed operations under the same ownership by having brothel management notify the Chief of Police of the proposed change.

(I) A prostitute or bartender of a licensed operation may not possess more than one work card at any given time.