

Bill No. 278

CITY OF FERNLEY  
ORDINANCE # 2019-008

BILL NO. 278: AN ORDINANCE AMENDING CHAPTER 1 OF THE FERNLEY MUNICIPAL  
CODE TITLE 10.

The City Council of the City of Fernley does ordain that Chapter 1 of Title 10 of the Fernley  
Municipal Code shall be amended to read as follows:

Title 10 - BUSINESS AND LICENSE REGULATIONS

CHAPTER 1. - IN GENERAL

Sec. 10.01.01. - Alcohol regulations and licenses.

Regulations related to alcohol are found in title 4.

Sec. 10.01.02. - Purpose and scope.

- (a) This title establishes the minimum procedural requirements for the city to issue a business license, provides a basis to regulate entities which conduct business in the city, and shall be known as the business license code.
- (b) The provisions of this title apply to all businesses in the city, including privileged businesses and franchises. Nothing in this title shall be deemed or construed to exempt any organization from complying with the provisions of any other city ordinance, including but not limited to, permit requirements, zoning requirements, and restrictions on privileged or illegal activities.

(Prior Code, § 3.01.01)

Sec. 10.01.03. - Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Additional definitions relating to businesses may be referenced in title 32, zoning, and state statutes.

*Advertise* means 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.

*Animal boarding*, if permitted by title 32, means a business that allows owners to drop their pets off for a specified period of time in exchange for payment.

*Applicant* means any person who has requested or will request a city business license or permit.

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*Autopawn* means a pawnbroker who loans money on the security of any vehicle or other transportation device.

*Business or doing business.*

- (1) The term "business" or "doing business" means 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, 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;
  - 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. If business is leased or rented, or offered for rent or lease, any of the following:
    1. Non-residential office, unit or units;
    2. Industrial warehouses;
    3. Four or more single-family dwelling units;
    4. Multifamily dwelling units; or
  - d. Anyone who has a contract with the city, other than a contract for employment.
- (2) The term "business" or "doing business" does not include activities conducted by, or for the exclusive benefit of, organizations that are certified as tax exempt entities pursuant to 26 USC 501(c) or authorized by state law as a nonprofit 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, nonprofit 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, means any person engaged in the business of cashing checks for a fee, service charge or other consideration.

*Child care facility* includes the term "day care center," as defined by NRS 432A.024.

- (1) The term "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;
  - d. An outdoor youth program, as defined as NRS 432A.028; or
  - e. A day care center, as defined in title 32, zoning:
    1. The term "day care center, large," means a facility which provides less than 24-hour care or supervision for five 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.
    2. The term "day care center, small," means a facility which provides less than 24-hour care or supervision of four 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) The term "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 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;
  - e. A seasonal or temporary recreation program, as defined in NRS 432A.029; or
  - f. An out-of-school recreation program, as defined in NRS 432A.0277.

*Commercial business* means a business or individual, with a physical address within the city, 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.

*Commercial mobile radio service* means any commercial mobile radio service as defined in 47 CFR 20.3 as of July 5, 1995.

*Commercial rental* means any nonresidential office unit, leased out or rented out, including industrial properties and warehouses.

*Contractor*, as defined by NRS 624.020, is synonymous with the term "builder."

- (1) The term "contractor" means and includes:
- a. 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 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 title.
  - b. 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.
  - c. A construction manager who performs management and counseling services on a construction project for a professional fee.
- (2) The term "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 title and contract with the owner of the planned unit development to construct the entire work of improvement.

*Corporation* means a company or group of people authorized to act as a single entity (legally a person) and recognized as such in law.

*Cottage food operation.*

- (1) The term "cottage food operation," as defined in the current version of NRS 446.866, means a natural person who manufactures or prepares food items in his private home or, if allowed by the health authority, in the kitchen of a fraternal or social clubhouse, a school or a religious, or 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 \$35,000.00 per calendar year.
- (2) The term "food item" means:
  - a. Nuts and nut mixes;
  - b. Candies;
  - c. Jams, jellies and preserves;
  - d. Vinegar and flavored vinegar;
  - e. Dry herbs and seasoning mixes;
  - f. Dried fruits;
  - g. Cereals, trail mixes and granola;
  - h. Popcorn and popcorn balls; or
  - i. Baked goods that:
    1. Are not potentially hazardous foods;
    2. Do not contain cream, uncooked egg, custard, meringue or cream cheese frosting or garnishes; and
    3. Do not require time or temperature controls for food safety.

*Department* means the city clerk's office.

*Distribution facility means a specialized building, which is stocked with products or goods to be redistributed to retailers, wholesalers or directly to consumers.*

*Electric energy provider* means any business or local government that provides electric energy to the public, regardless of whether they are regulated by the state public service commission.

*Enterprise* means any trade, calling, service, profession, or business venture.

*Exempted businesses* means 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.

- (1) Except as otherwise provided in subsection (3) of this definition, 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 NRS ch. 583; 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

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department of the farm or the food to be consumed, except as otherwise provided in subsection (1) of this definition.

- (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 title and any regulations adopted pursuant thereto concerning food establishments.

*Financial institution* means 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* means 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* means 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* means 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.*

- (1) The term "garage," as defined by NRS 487.540, means a business establishment, sole proprietorship, firm, corporation, association or other legal entity that performs any of the following services on motor vehicles:
  - a. Repair or replacement of the:
    1. Engine;
    2. Brake system;
    3. Transmission system;
    4. Drivetrain system;
    5. Heating and air-conditioning system;
    6. Cooling system;
    7. Muffler and exhaust system;
    8. Electrical system;
    9. Electrical charging system; or
    10. Fuel injection or carburetion system;
  - b. Engine tune up;
  - c. Diagnostic testing;
  - d. Alignment; or
  - e. Oil change and lubrication.
- (2) The term "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* means 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 72 hours in duration.

*Gas provider* means any business or local government that provides gas service to the public, regardless of whether they are regulated by the state public service commission, including, but not limited to, natural gas and propane gas.

*Gross receipts.*

- (1) The term "gross receipts," as defined by NRS 372.025, 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:
  - a. Any services that are a part of the sale.
  - b. All receipts, cash, credits and property of any kind
  - c. Any amount for which credit is allowed by the seller to the purchaser.
- (3) The term "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* means a person who performs minor work, repair, or property maintenance, the value of which is less than \$1,000.00, 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* means any activity conducted as a hobby, or to supplement one's income, if the gross income derived from such activity does not exceed \$5,000.00 per year. The term "hobby/crafter business" excludes firearms businesses.

*Holiday* means a weekday during which the city is closed in observance of this day.

*Home occupation business* or *home-based business* means a person, excluding contractors, conducting business out of his residence and whose business complies with the home occupation regulations of the city development code in title 32.

*Industrial* means 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* means storage, repair or dismantling of junk or wrecked vehicles, RVs, boats, motorcycles, or commercial vehicles, unless otherwise defined in the city development code in title 32.

*Kennel.*

*Commercial kennel* means any place of business where dogs, cats, and other domestic (non-farm) animals are kept 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 city development code in title 32.

*Residential breeder/kennel*, if permitted by this Code, means any enclosure, building, structure, lot or area at a residence where more than three 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 five acres. Residential breeders are allowed one litter per adult female dog every two years.

*License* means permission granted by the licensing authority to engage in the business for which the license is issued.

*Lodging* means a temporary place to stay for a fee, including, but not limited to, hotel, motel, inn, bed and breakfast, and RV park.

*Manufactured/mobile home park*, as defined in the city development code in title 32, means a parcel of land upon which two or more mobile or manufactured homes have been set for occupancy, not on individual parcels of land.

~~Manufacturing plant means a location where workers produce goods or operate machines processing one product into another.~~ ▲

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*Mobile vendor* means 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* means a buildings which is occupied or is arranged, designed, and intended to contain more than one dwelling unit, but not including hotels, motels, boarding houses or otherwise provided accessory dwellings. The term "multi-family dwelling" includes, but is not limited to, duplex, triplex, fourplex units, apartments, townhouses, and condominiums.

*Non-profit or charitable organization*, as defined by NRS 82.021. "Corporation for public benefit" is a corporation formed or existing pursuant to this title 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;
- (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; or
- (3) Activities conducted by, or for the exclusive benefit of, organizations that are certified as tax-exempt entities pursuant to 26 USC 501(c)(3), including, but not limited to, organizations operated for religious, charitable, scientific, literary, educational, or fraternal purposes.

*Out of town business* means 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, means 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* means 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* means the actual space of a particular business which would include all buildings, improvements, surrounding sidewalks, and designated parking.

*Professional* means 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 state supreme court rules. Employees of licensed professionals or contractors are not required to obtain a city business license.

*Office professional*, as defined in the city development code in title 32, includes, but is not limited to, physicians, dentists, lawyers, real estate sales, architects, engineers, and accounts.

*Personal service professional*, as defined in the city development code in title 32, includes, but is not limited to, cosmetologists, barbers, photographers, dry cleaners, and travel agents.

*Public utilities* means all telecommunications companies, electric energy providers, gas providers, water, sewer, and commercial mobile radio services.

*Recreational vehicle park* means a recreational vehicle park where travel trailers, pick-up campers, camping trailers, motor homes, converted trucks or buses, etc. park temporarily.

*Residential rental dwelling unit* or *residential landlord* means and includes, but is not limited to:

- (1) Single-family dwelling unit.
- (2) Multi-family dwelling units.

*Restaurant*, as defined in the city development code in title 32, means an establishment for the sale and consumption of food and beverages on the premises, which may include a drive-through service.

*Retail sale* or *sale at retail*, as defined by NRS 372.050, means:

- (1) A sale for any purpose other than resale in the regular course of business of tangible personal property.
- (2) 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* means a parcel temporarily used, four 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* means 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 the term "garage sale" in this section.

*Sexually oriented business* means any business, if permitted by the city 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.

Square footage means the area of the building(s) used for the business operations.

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*Single-family dwelling unit* means 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, means a self-employed owner of an unincorporated business.

*Special event* means 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. The term "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* means a business license issued for a commercial business that requires extraordinary use of city personnel to manage the license, including, but not limited to:

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

*Telecommunications company* means any business or local government which provides telecommunications services who holds a certificate of public convenience and necessity issued by the state public service commission and derives intrastate revenue from the provision of that service to retail customers.

*Temporary merchant/vendor* means 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 city development code in title 32.

*Indoor theater* means a facility for showing motion pictures, videos, or for staging theatrical performances to an audience, inside an enclosed structure, excluding sexually oriented/adult theaters.

*Outdoor theater* means 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.

- (1) The term "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:
  - a. 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
  - b. 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.
- (2) The term "title loan" 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* means 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* means a person or business who sells products or services.

*Warehouse* means a commercial or industrial building used for storage or manufacture of goods.

(Prior Code, § 3.01.02; Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.04. - 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, 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 who has no more than three 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 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.
- (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 USC 501(c) (3), including, but not limited to, organizations operated for religious, 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 this Code and is properly permitted for that special event as a vendor, as defined in section 10.01.03, 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 \$5,000.00.

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.

(Prior Code, § 3.01.03; Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.05. - 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 and if the business license being applied for is considered warehouse, manufacturing, distribution or industrial, square footage of the area used for all business operations.
  - (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 ten 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.

(Prior Code, § 3.01.04; Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.06. - Review and approval process.

- (a) An application for license may be referred to the appropriate city department(s) for review and investigation. 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.

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- (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 Investigation (FBI) fingerprint-based inquiry must be conducted prior to the issuance of any license or work permit.
  - (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, each applicant for a city business license or work permit set forth in this section shall provide a full set of his 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 10.01.05, 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 background check of the applicant. The state 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.
  - (6) 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 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 and/or square footage. ~~No license shall be issued if this 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 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.

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(Prior Code, § 3.01.05; Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.07. - Duties of licensees.

The following shall be duties of licensees:

- (1) 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 this Code that may be imposed after the issuance of a license.
- (2) Operate properly. Avoid all prohibited practices or conditions which do or may affect the public health, safety, morals, or welfare.
- (3) 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.
- (4) 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.
- (5) Valid only at the location shown on the license; adding or changing a location requires a new license. A reprint fee may apply.
  - a. 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.
  - b. 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.
  - c. Licenses are not transferable. If the business changes ownership, a new application, inspection, and applicable fees are required.
  - d. A separate license is required for each establishment, branch, or location of a business.
- (6) Maintain records. Business owner is responsible for maintaining records of the business.
  - a. Keep such records as may be necessary to determine the amount of business license fees, or any other record required by this title.
  - b. Preserve such records for not less than four years or until any proceedings under this Code pertaining to the business are concluded.
  - c. Make records available for inspection by the city upon demand at reasonable times.

- (7) Permit inspection or audit. Permit reasonable inspections of the business and examination of its books by the city and all authorized personnel.
- (8) Notify of changes. Ensure 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 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 ten business days of such a change and provide the city with proof of the name change and update license information.
- (9) Cease business. Upon expiration, revocation, or suspension the licensee shall immediately cease conducting business.

(Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.08. - Unlawful business activity.

It is unlawful for any person to:

- (1) Commence, advertise, transact, conduct, or engage in any business in the city without a valid, unexpired license issued pursuant to this title;
- (2) Commence, advertise, transact, conduct, or engage in any business in the city if the business license has expired; or
- (3) 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.

(Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.09. - Quarterly payments (if permitted).

- (a) Businesses whose annual business license fees exceed \$10,000.00 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 ten 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: 25 percent of the [annual license fee](#) paid no later than the 30th day following the end of each quarter for four quarters of the same fiscal year.
- (e) Quarterly payment request will be cancelled if any one payment is past due.

(Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.10. - License fee/tax liens.

- (a) License fee/tax; liens on property where located; enforcement. Any license fee based on any business within the city under the provisions of this title 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 upon 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 by recording in the office of the county recorder, within 90 days following the date on which such fees became delinquent, a notice of the tax lien containing the following:
  - (1) The amount of fees/tax due and the appropriate year;
  - (2) The name of the record owner of the property;
  - (3) A description of the property sufficient for identification;
  - (4) A verification by the oath of the chief license officer of the city; and
  - (5) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within two years after the date of recording of the notice of the fee/tax lien, and accompanied by appropriate notice to other lienholders.

(Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.11. - Inspections of licensed businesses.

- (a) 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.
- (b) It is the policy of the city that, immediately upon arriving at the premises to be inspected, the city inspector ordinarily will identify himself 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. A law enforcement officer or any city employee making lawful investigation requiring a delay in identification need not identify himself immediately, provided that no person shall be required to admit any such unidentified person to any premises.
- (c) 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.
- (d) 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 the 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.
- (e) Failure to comply with this section may result in revocation of a license.

(Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.12. - Application and license fees.

- (a) Application fee.

- (1) 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.
  - (2) All businesses must register their business with the licensing department, regardless of fees charged, and apply for exemption annually.
- (b) Business license fee schedule.
- (1) 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.~~ most current Business License Fee Schedule as adopted by Resolution.
  - (2) 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. ~~Licenses are granted a 30-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. For any business operating without a license as required within the City of Fernley, penalties will be assessed if the business is not in compliance within 60 days of initial written contact from the City Clerk according to the most current Business License Fee Schedule as adopted by Resolution.n.
- (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.
- (g) 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 30<sup>th</sup> day following the expiration date of the license.
- (h) If any license issued under the provisions of this title has not been renewed through payment of the applicable license fee ~~30 days after~~ by the expiration date, a penalty equal to 25 percent of the ~~delinquent annual~~ license fee shall be assessed and must be added to the delinquent license fee. The delinquent license fee, including any permit and code enforcement fees, and any penalties must be paid prior to the renewal of such license.
- (i) If any license issued under the provisions of this title has not been renewed through payment of the applicable license fee within ~~30~~ 60 days after the expiration date, a penalty equal to 50 percent of the ~~delinquent annual~~ license fee shall be assessed and must be added to the delinquent license fee. The delinquent license fee, including any permit and code enforcement fees, and any penalties must be paid prior to the renewal of such license.
- (j) A business license cannot be renewed after it becomes ~~75~~ 60 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 the application being submitted.

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(Prior Code, § 3.01.06; Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.13. - Special business license fees, conditions, and waivers for certain businesses.

- (a) *Public utilities.*
  - (1) *License fees.*
    - a. Every public utility providing service within the city must pay an annual business license fee not later than 30 calendar days after the end of each calendar quarter. The business license fee for each public utility providing service within the city shall be established and/or modified by ordinance of the council and shall not exceed the maximum rate allowed by state law.
    - b. The business license/franchise fee for each public utility providing services within the city shall equal the following percent of the public utility's gross revenue as regulated by NRS 354.59889:
      - 1. Telecommunication companies: four percent.
      - 2. Electric energy providers: four percent.
      - 3. Gas providers: five percent.
      - 4. Commercial mobile radio services: three percent of gross revenue from the first \$15.00 for each line of access for each of the utility's customers located within the city.
  - (2) *Notification, revenue statement, payment, penalties, and interest.*
    - a. Each public utility to which this section applies or which derives or intends to derive intrastate revenue from customers located within the city shall, not later than 60 calendar days after the effective date of the ordinance from which this section is derived or 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 section applies shall, not later than 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 30 calendar days after the end of each calendar quarter.
    - d. An operator license fee not received or postmarked within 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 of the delinquent amount per month and interest of one percent of the delinquent amount per month.
  - (3) *Existing franchise agreements not altered.* This chapter does not alter the terms of any existing franchise agreement between the city and a company providing public utility services within the boundaries of the city.
- (b) *Kennels.* Each business licensee who operates a kennel shall pay, in addition to the foregoing fees, an annual fee of \$50.00.
  - (1) *Notice.* Notice of the date, time, and place the council shall consider the application for a kennel license shall be sent by registered mail or personal delivery to all adjoining property owners by the department. The business applicant is responsible for providing the names and addresses of all adjacent property owners to the department.
  - (2) *Conditions of license.* The following limitations and requirements shall apply to all commercial kennel licenses.

- a. The number of dogs shall be set by the council, taking into consideration the size and temperament of the dogs and the size of the commercial kennel and the character of the surrounding property.
- b. Every dog over the age of six months shall have a current inoculation against rabies administered by a licensed veterinarian.
- c. Dogs shall have a run of adequate size and escape-proof construction.
- d. The property shall be zoned industrial or commercial.

(Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.14. - Expired license appeals process.

- (a) 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.
- (b) If the decision is upheld by the city clerk, the appellant may request a formal hearing by the city council within ten 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.
- (c) Within ten days after a hearing, the city clerk or designee shall notify the applicant in writing of the decision of the city council. The decision of the city council is final.

(Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.15. - Power to audit.

- (a) *Records.*
  - (1) 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.
  - (2) For the purposes of this title, the term "adequate records" means records which show, or may indicate, the gross receipts of the business and includes, but is not limited to, the following:
    - a. Original or copies of all sales invoices and credit card receipts for a period of one year preceding the date of an audit;
    - b. 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
    - c. Income tax returns (Schedule C of 1040 Federal Tax Return for Sole Proprietorship; Form 1065 Federal Tax Return for Partnerships and LLCs; Form 1041 Fiduciary Income Tax Return and Form 1120 Federal Tax Return for Corporations) for the previous four tax years.

- (3) 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.
- (b) *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 NRS ch. 364, 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.
  - b. If those issues are not resolved through compliance with subsection (b)(1)a of this section:
    1. The proprietor can prepare documentation of those issues challenging to disprove the findings and submit the documentation to the city clerk; and
    2. 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.
  - c. If the proprietor wishes to appeal that decision, they must file an appeal within ten days with the city clerk.
    1. Within five days of the receipt of the appeal, the city clerk shall submit the documentation to the finance director; and
    2. The finance director or designee shall, within 60 days after receipt of the documentation by the city clerk pursuant to subsection (b)(1)c.1 of this section, review the documentation and inform the proprietor of the decision regarding the appeal. The decision of the finance director is final.
- (2) If an audit is performed pursuant to this title:
- a. 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.
  - b. 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
  - c. The information received from the license under this section shall be confidential and available only to those city officials concerned with such matters.
- (c) *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.

(Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.16. - Information confidential.

- (a) The gross receipts statements filed pursuant to the provisions of this title 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 title. 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 title provided, and such violation may also result in discipline up to and including termination.

(Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.17. - 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 first 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 first 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 ten 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.

(Prior Code, § 3.01.08; Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.18. - 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:
    - (a) In the same business classification;
    - (b) In the same location; 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.

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(Prior Code, § 3.01.10; Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.19. - 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.

- (1) *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:
  - a. The application or any other document is incomplete or contains false, misleading or fraudulent statements;
  - b. All application, license, and/or investigation fees are not paid;
  - c. 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;
  - d. 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;

- e. 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;
  - f. 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 years;
  - g. 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;
  - h. The applicant is in default on any payments owed to the city;
  - i. The applicant has made a material and intentional underreporting of the gross revenue of the business.
- (2) *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:
- a. Failure to pay business license fees within 30 days of their due date and non-payment of any amounts owed to the city;
  - b. Failure to update the business license under the provisions of this title;
  - c. Failure to maintain other licenses required by federal, state, county, or city laws which are necessary to conduct the enterprise endorsed on the license;
  - d. 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;
  - e. Fraudulent practices or misrepresentations in the operation of the business, or concealment or misrepresentations in procuring this license;
  - f. Any violations of the provisions of this Code;
  - g. Any act in the operation of the business which is unlawful or prohibited by federal, state, county, or city law;
  - h. 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;
  - i. The applicant has made a material and intentional underreporting of the gross revenue of the business;
  - j. Any other cause that the city through its department or its council finds to be just or equitable reason;
  - k. Any payments owed to the city.
- (3) *Probation procedure.* Following an investigation, the license department may place a business on probation, under the following procedure:
- a. The department shall notify the business licensee of the violation in person or by certified mail. The notice shall contain the following information:
    1. The name and address of the business licensee;
    2. The violation which has occurred;
    3. The term of the probation is 12 months;
    4. The licensee has ten days to appeal the decision in writing to city council.
  - b. If the business licensee chooses to appeal the probation, the licensee has ten business days from the date the notice was received to request a hearing before the city council.

- c. If no other violations occur during the 12-month period, the probation will be cancelled.
- (4) *Suspension and revocation procedure.* The license department may suspend the license, pending council action on revocation, under the following procedures:
  - a. The department shall notify the business licensee of the violation in person or by certified mail. The notice shall contain the following information:
    - 1. The name and address of the business licensee;
    - 2. The violation which has occurred.
  - b. The business licensee has five days, excluding weekends and holidays, from the receipt of the notice to remedy the violation.
  - c. If the business licensee fails to remedy the violation, the business license will be suspended.
  - d. If the business licensee fails to remedy the violation, the department shall send a second notice, which shall contain the following information:
    - 1. The name and address of the business licensee;
    - 2. The violation which has occurred;
    - 3. The date the suspension will be in effect; and
    - 4. 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.

This notice shall be served upon the business licensee at least ten business days prior to the time specified for hearing by certified mail or personal service.

- (5) *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 matters beyond his control, and not through negligence on the part of licensee.
- (6) *Notice of revocation.* If the council revokes the license, the business licensee shall be served notice of revocation within ten 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.
- (7) *Grounds for immediate suspension of license.*
  - a. 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 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.
  - b. The license may be reinstated after all conditions warranting the suspension have ceased.
- (8) *Cease and desist orders.*

- a. The city clerk may issue a cease and desist order to any person who is transacting or conducting business in violation of this Code.
  - b. 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.
  - c. A cease and desist order may:
    - 1. 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;
    - 2. Warn the recipient that each violation is a misdemeanor crime.
  - d. 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.
- (9) *Enforcement.* 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 1.

(Prior Code, § 3.01.12; Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.20. - 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.

(Prior Code, § 3.01.14; Ord. No. 2017-005, 6-6-2017)

Sec. 10.01.21. - Public utilities.

All public utilities must obtain a business license and comply with all provisions of this title.

- (1) Notification, revenue statement, payment, penalties, and interest. Each public utility to which this title applies or which derives or intends to derive intrastate revenue from customers located within the city shall, not later than 60 calendar days after the effective date of the ordinance from which this section is derived or 30 calendar days before the public utility begins to provide service to those customers, whichever occurs later, provide to the city:
  - a. An acknowledgment that the public utility is operating or intends to operate within the city; and
  - b. The date that the public utility began or intends to begin to derive revenue from customers located within the city.
- (2) Each public utility to which this title applies shall, not later than 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.
- (3) The fee for the utility operator license is payable not later than 30 calendar days after the end of each calendar quarter.
- (4) An operator license fee not received or postmarked within 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 of the delinquent amount per month and interest of one percent of the delinquent amount per month.