

**BILL NO. 291**  
**CITY OF FERNLEY**  
**ORDINANCE # 2020-001**

AN ORDINANCE MODIFYING FERNLEY MUNICIPAL CODE TITLE 4 ALCOHOL, UPDATING DEFINITIONS; EXPANDING CLASSES OF LICENSE; REQUIRING A LIQUOR POLICY TO PREVENT SALES TO MINORS; ADDING PROVISIONAL LICENSE; REMOVING QUARTERLY PAYMENTS AND GRACE PERIOD; UPDATING THE REVOCATION, PROBATION AND SUSPENSION PROCESS; AND OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF FERNLEY, hereinafter “the Council” DOES HEREBY ORDAIN:

That Title 4 - ALCOHOL of the Fernley Municipal Code is hereby modified as attached.

Title 4 - ALCOHOL

Sec. 4.01. - Purpose and intent.

The City Council declares that this liquor control title is an exercise of the regulatory powers delegated to the Council by the state pursuant to NRS 266.355 and NRS 268.090

1. This title establishes the minimum procedural requirements for the City to issue a liquor license, provides a basis to regulate entities which sell liquor in the City, and shall be known as the liquor code.
2. The provisions of this title apply to all businesses selling liquor in the City. 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.

Sec. 4.02. - 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:

*Alcoholic Beverage* shall be defined as pursuant to the most recently adopted version of NRS 202.015 which currently reads:

1. Beer, ale, porter, stout and other similar fermented beverages, including sake and similar products, of any name or description containing one-half of 1 percent or more alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.
2. Any beverage obtained by the fermentation of the natural content of fruits or other agricultural products containing sugar, of not less than one-half of 1 percent of alcohol by volume.
3. Any distilled spirits commonly referred to as ethyl alcohol, ethanol or spirits of wine in any form, including all dilutions and mixtures thereof from whatever process produced.

*Ancillary* shall be defined as providing necessary support to the primary activities or operations of the business.

*Beer* shall be defined as pursuant to the most recently adopted version of NRS 369.010, which currently reads: any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or similar product, or any combination thereof, in water.

*Brew Pub* shall be defined as pursuant to the most recently adopted version of NRS 597.230, an establishment which manufactures malt beverages and sells those malt beverages at retail and wholesale.

*Catering* shall be defined as a business which: Prepares food at a licensed establishment and delivers for service and consumption at another location within the City and serves alcoholic beverages in connection with such event. Caterers or other suppliers of alcoholic beverage whose principal place of business is outside the City shall still be required to obtain a temporary liquor license licenses prescribed herein if doing business within the City.

*City* shall be defined as the City of Fernley, a political subdivision of the State of Nevada.

*Council* shall be defined as the City Council of the City of Fernley.

*Craft Distillery* shall be defined as pursuant to the most recently adopted version of NRS 369.019, an establishment which manufactures distilled spirits from agriculture raw materials through distillation and sells those distilled spirits

*Department* shall be defined as the City of Fernley City Clerk's office.

*Establishment* shall be defined as any real property including any buildings, improvements, equipment, facilities and parking lots used or maintained in connection with the operation of a business.

*Fraternal Club* shall be defined as an organization of persons engaged in keeping, conducting and maintaining an establishment for bona fide fraternal, social, recreational, charitable, or athletic purposes or a political subdivision or entity of the state which is not engaged in the sale of alcoholic beverages solely for pecuniary gain or commercial profit.

*Growler* shall be defined as any fillable and sealable glass, ceramic, plastic, aluminum or stainless-steel container designed to hold only beer or cider. This class is only available to licensees that offer Full-Service Liquor or Brew Pubs.

*License* shall be defined as permission granted by the licensing authority to engage in the business for which the license is issued.

*Licensee* shall be defined as any individual person to whom a license has been issued pursuant to this title.

*Liquor* shall be defined as pursuant to the most recently adopted version of NRS 369.040 reads:

1. 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.
2. Any liquid containing beer or wine in combination with any other liquor shall not be construed to be beer or wine

*Liquor Manufacturing* shall be defined as an establishment where the primary business is the manufacture, production, and bottling of malt beverages, liquor and spirit-based products of all kinds, including brewing, distilling, and rectifying activities. A liquor manufacturer licensee is subject to all federal and state laws and regulations applicable to such business activities.

*Malt Beverages* shall be defined as pursuant to the most recently adopted version of NRS 597.200 which currently reads: beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

*Minor* shall be defined as a natural person, male or female, under the age of twenty-one 21 years.

*Non-profit or charitable organization* shall be defined as 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 USC 501(c) of the United States Internal Revenue Code, and/or has received from the state secretary of state a certificate of non-profit corporation, association, or society.

*Off-Premises Liquor Sales* shall be defined as packaged liquor sold at retail and not consumed on the premises.

*On-Premise Liquor Sales* shall be defined as liquor served by the drink or in open containers for consumptions upon the premises.

*Person* shall be defined as pursuant to the most recently adopted version of NRS 0.039 which currently reads: Except as otherwise expressly provided in a particular statute or required by the context, "person" means a natural person, any form of business or social organization and any other nongovernmental legal entity including, but not limited to, a corporation, partnership, association, trust or unincorporated organization. The term does not include a government, governmental agency or political subdivision of a government.

*Retail Sale or Sale at Retail* shall be defined as a sale to a consumer or to any person for resale and consumption off premises.

*Sale* shall be defined as any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and shall include delivery of any alcoholic beverage in the City.

*Sample* shall be defined as an amount that is only of such quantity as is necessary to provide a taste of an alcoholic beverage. A sample may not exceed one-half ounce per drink and only be offered at a licensed establishment.

*Temporary Liquor License* shall be defined as a liquor license that is issued for 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 temporary liquor license also means a liquor license that is issued for a certain time not to exceed 5 days. It 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

*Wholesale* shall be defined as the sale of goods for the purpose of resale.

*Wholesaler Liquor Distributor* shall be defined as a person or company licensed to sell alcoholic beverages as it is originally packaged to retail stores, but not to sell to the consumer or general public

*Wine* shall be defined as pursuant to the most recently adopted version of NRS 369.140 which currently reads: any alcoholic beverage, obtained by fermentation of the natural contents of fruits or other agricultural products containing natural or added sugar.

#### Sec. 4.03. - Classes of Licenses and Description.

For specific classes of licenses, it shall be unlawful for any person to sell any liquor at any location within the City without first obtaining the applicable liquor license(s) from the Department.

A. The following classes of liquor licenses may be issued by the City of Fernley to qualified applicants:

1. Retail Liquor License
2. Full-Service Liquor License
3. Brew Pub License
4. Beer and Wine License
5. Wholesaler Liquor Distributor License
6. Ancillary Liquor License (ancillary liquor license shall be in addition to any other liquor license held under this chapter)
7. Temporary Liquor License
8. Manufacturing License
9. Fraternal Club or Nonprofit Organization Liquor License
10. Complimentary Liquor Beverage License

B. Description of classes

Each license is separate and cannot crossover. A separate license is needed for each class of license listed below.

1. Retail Liquor License

A retail liquor license shall entitle the holder to sell liquor at retail, in packages only, and for consumption outside the establishment where sold, which includes businesses commonly known as convenience, grocery or liquor stores.

2. Full-Service Liquor License

A Full-service liquor license shall entitle the holder to sell alcoholic beverages only for consumption in the establishment where sold, which includes businesses commonly known as restaurants, bars, saloons, and nightclubs.

3. Brew Pub License

A Brew Pub license shall entitle the holder to manufacturer malt beverages and sell those malt beverages for consumption at the establishment and at retail. This license type may sell malt beverages for on premise consumption and off premise consumption. Any person engaged in a business described in NRS Chapter 369 as an importer/wholesaler or manufacturer of beer, wine

and liquors, winemakers, instructional wine-making facilities, breweries, brew pubs and craft distilleries must also obtain the proper licensing from Nevada Department of Business & Industry.

#### 4. Beer and Wine License

A Beer and Wine license shall entitle the holder to sell wine or beer for consumption in the establishment where sold.

#### 5. Wholesaler Liquor Distributor License

License shall entitle the holder to sell liquor at wholesale only. License permits the sale of liquor 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 conditions:

- a. The business may not be located in a residential neighborhood.
- b. No license shall be issued to 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 liquor.
- c. Any person engaged in a business described in NRS Chapter 369 as an importer/wholesaler or manufacturer of beer, wine and liquors, winemakers, instructional wine-making facilities, breweries, brew pubs and craft distilleries must also obtain the proper licensing from Nevada Department of Business & Industry.

#### 6. Ancillary Liquor license

Shall entitle the holder to sell alcoholic beverages for consumption at locations within the City where the licensee is catering for entertainment, special occasion parties or social gatherings.

#### 7. Temporary Liquor License

This license type permits the sale of alcoholic beverages for consumption only at the location of the event for a period of not more than five days. At such events, the licensee may exercise only those privileges authorized by his/her license and shall comply with all ordinances and provisions of the Code and violation of any such provisions may be grounds for denial of any future licenses.

#### 8. Manufacturing License

A liquor manufacturer's package license shall entitle the licensee to sell only the manufactured or bottled products licensed to produce on the premises to other persons at retail and only for off premises consumption. Any person

engaged in a business described in NRS Chapter 369 as an importer wholesaler or manufacturer of beer, wine and liquors, winemakers, instructional wine-making facilities, breweries, brew pubs and craft distilleries must also obtain the proper licensing from Nevada Department of Business & Industry.

#### 9. Fraternal Club or Nonprofit Organization Liquor License

It shall be unlawful for any fraternal club or nonprofit organization as defined herein to sell liquor without first obtaining the appropriate liquor license from the City.

#### 10. Complimentary Alcoholic Beverage License

These license type permits the limited service and on-premise consumption of complimentary alcoholic beverages at the following locations: Art Galleries in conjunction with the sale of art; Cosmetology establishments; Barbershops; Professional businesses. The following are required:

- a. Security/alcohol control plan
  - b. No alcohol stored in a manner accessible or visible to customers/patrons
  - c. No fee can be charged directly or indirectly (no cover charges, tips or donations) for alcoholic beverages
  - d. No bar structure allowed
  - e. Due to health and building requirements, no mixed cocktails. One-time use containers must be used for beverage consumption.
- C. 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 conduct the activities authorized under a particular license.

#### Sec 4.04. - License required, exceptions.

- A. All such persons and establishments as defined in this title 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.
- B. Each license provided for in this article may only be issued to an individual person, it being the intention to hold the individual, as the licensee, personally responsible for the orderly conduct of the business. If the applicant is not the sole owner of the business to be conducted at the establishment for which the license

is sought, the application must be accompanied by a sworn statement of the owner or chief executive officer of the business appointing the applicant as the agent of the business and authorizing the applicant to apply for the license and to conduct the business.

- C. 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 title, the laws of the state, other ordinances of the City, or for any other cause deemed sufficient by the Council in the exercise of its sole discretion.
- D. This section does not apply to the following:
  - 1. 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.
  - 2. 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.
  - 3. 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.
  - 4. The employees of a person who holds a valid, unexpired license pursuant to this title, while acting within the course of his or her employment.
  - 5. Fraternal clubs in which only club members, auxiliary members and their bona fide guests are permitted to obtain liquor at no cost.

Sec. 4.05. - License requirements, application, background investigation, exceptions and approval procedure.

- A. It shall be unlawful for any person(s) to conduct business as an importer/wholesaler of intoxicating liquors, and/or conduct business as a brew pub, brewery, craft distillery, instructional wine facility, rectifier, winemaker and/or sell intoxicating liquors at a business establishment in the City of Fernley without first obtaining City Council approval and the appropriate liquor license from the City. The liquor license approval process is the same for all license types and categories.
- B. *Required 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. No applicant for a liquor license has any right to such license. Any



license issued pursuant to the provisions of this title is a revocable privilege, and no holder acquires any vested right therein or thereunder.

1. Any person wishing to obtain a liquor license within the City must be at least 21 years of age and shall file an application on forms provided by the Department with proof of age
2. The following personal data must be included on the application: name and place of residence of applicant, whether or not he/she is a lawful 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 any felony or any other crime which would be considered a felony under the laws of the State of Nevada, or gross misdemeanor or of any misdemeanor involving moral turpitude.
3. 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 title, and such other rules and regulations as may at any time hereafter be adopted or enacted by resolution or ordinance of the City Council,
4. 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.
5. Signature and verification. Application must be signed and verified that all information is true and correct, by all persons who shall conduct or have interest in the business activities for which a liquor license is required.
6. Each application must be completed in full and filed with the department, together with required investigation fees, set up fee, and the annual liquor license payment for each class of license for which application is made.
7. 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
8. Every liquor licensee who sells, serves, gives, or otherwise furnishes liquor shall adopt a policy to prevent a person under 21 years of age from obtaining an liquor from that person and a copy of the policy shall be available at the establishment at all times and be known to and available to all employees. The policy shall be submitted to the department with the liquor license application.

C. *Background investigation; confidentiality.*

1. Every person submitting an application for a liquor license, subject to the exceptions set forth below, is subject to a background investigation to determine suitability for the license, including an FBI fingerprint-based investigation prior to the issuance of any license. A background investigation conducted by the City may be considered valid for 60 months as it relates to the requirements of this chapter unless otherwise set forth herein. Upon 60 months a new background investigation shall be required. A background investigation for a Temporary license holder shall be valid for a period of 12 months. Upon 12 months a new background investigation shall be required.

2. Fingerprinting

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.

3. The Lyon County Sheriff or his designee shall serve as the investigating agency of the City. Pursuant to NRS 239B.010(1)(a) and P.L. 92-544, the investigating agency is authorized to submit the fingerprints of an applicant for a liquor license 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 Nevada Department of Public Safety is hereby authorized to exchange such fingerprint data with the FBI for purposes of the background check.
4. 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 Clerk prior to issuing a liquor license.

*D. Exceptions to background investigation requirement:*

Notwithstanding the foregoing requirements, no background investigation shall be required in the following circumstances:

1. No investigation shall be required for any applicant who has held a license within the preceding one year if the prior investigation has been completed within the prior 60 months.
2. No investigation is required for a person who holds a current license and is seeking a transfer to another establishment, an additional license for another establishment, or an additional class of license, if the prior investigation has been completed within the prior 60 months.

*E. Approval Procedure*

1. Upon completion of background investigation, City Clerk shall immediately refer the investigation results to the City Council at its next regular meeting.
2. The City Council may approve or deny the application. A majority vote is required of all members of the City Council to grant or deny such license. Such action by the City Council on any license shall be final.

Sec. 4.06. - Payment of fees set up fees, investigation fees, waiver of fees, late fee, suspension due to non-payment, failure to pay fees.

A. *Payment of fees.*

All fees shall be paid one year in advance. 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.

B. *Set up fees*

In addition to the business license requirements of this title, each applicant for a liquor license shall pay an additional liquor license set-up fee at the time of the initial application 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. New liquor license fee are non-refundable.

C. *Investigation fees.*

In addition to fees required to accompany the application, the applicant shall be required to pay the Sheriff's Department the actual cost incurred by the local law enforcement to complete necessary background investigation. An application for a change in the active manager does not require a new license fee. Investigation fees are non-refundable.

D. *Waiver fees.*

1. 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.
2. 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. *Late fees:*

If any license issued under the provisions of this title has not been renewed by the expiration date, a penalty of fifty percent (50%), of the annual license fee shall be assessed and must be added to the delinquent license fee. The delinquent license fee, including any penalties must be paid prior to the renewal of such license. Actual receipt of any billing notice by the licensee is not required and the failure of the City to notify any licensee of any payment due shall not be construed or held to be a waiver of the payment of such license fee.

F. *Suspension due to non-payment*

1. The City Clerk may immediately suspend any liquor license for failure to pay liquor fees by the due date.
2. Service on the licensee shall be made by personally delivering a copy of the Notice or by mailing a copy by registered mail with return receipt to the place of business of the licensee, which is specified on the license.
3. Upon payment of the delinquent license fee amount, all late penalties, and the reinstatement assessment, the City Clerk shall reinstate the suspended 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.

G. *Failure to pay license fees*

On the 16<sup>th</sup> day after the license expires, the license will be suspended by the City Clerk, until City Council takes final action.

Sec. 4.07. - Renewal of license.

- A. Any licensee may renew his or her license at the expiration thereof; provided, that he or she is qualified to receive a license and the establishment for which such renewal license is sought is 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.
- B. Those licensees whose license is in good standing shall be furnished a renewal form along with the annual bill for liquor license 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 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.

- C. In addition to any other penalties in this title, 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 60 days of the change may result in a fine of up to \$1,000.00.
- D. 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.

#### Sec. 4.08. - Provisional License.

Upon submission of a properly completed application for a liquor license, the applicant may obtain a provisional license under the following circumstances:

- A. All other licensing requirements have been met except for the investigating agency;
- B. The investigating agency background investigation is in process with 2 or more applicants having submitted applications.
- C. The applicant executes an interim license declaration form acknowledging the background investigation and stipulates that if the license is ultimately denied, all activity for which a liquor license is required shall immediately cease upon receiving the denial notice; and
- D. Appropriate conditions or limitations effective during the interim period may be imposed and the applicant shall hold the City harmless from any damages or claims arising out of its operation pursuant to the interim license.
- E. The provisional license shall only be valid for a period not to exceed ninety (90) days.

#### Sec. 4.09. - 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 or may hereafter be amended or promulgated. It is the sole responsibility of the licensee to keep himself or herself informed of the context of all such rules and regulations.

#### Sec. 4.10. - Posting of license, transfer of license or location.

- A. *Posting.* Each license or a copy of a license shall be posted in a conspicuous place in the establishment for which it was issued. If the copy of the license is posted in a conspicuous place in the establishment, an original copy of the license should be made available for inspection/review upon request by the department
- B. *Transfer.* Any liquor license is 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 the death of a licensee , 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 title for a period not to exceed six months.
- C. No liquor license is exchangeable into a different type of license or transferrable to a different location unless such conversion or transfer complies with and meets all of the requirements of this title. 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 department 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.

Sec. 4.11. - Automatic revocation, Nonuse.

- A. *Automatic revocation.* In the event the holder of a liquor license shall discontinue business for more than 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 120 days after its issuance, or is not kept in actual use for a period of 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 120 days in increments but in no event shall the City Council approve any non-operational status beyond a maximum of two 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 non-operational 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.

Sec. 4.12. - Enforcement powers, access to business premises.

- A. Enforcement powers. The Department shall have the authority to investigate any matters pertaining to an applicant's or licensee's compliance with the provisions of this Chapter and enforce the provisions of this Chapter. Any such representative of the Department shall have all powers which may be necessary or appropriate for a complete and effective exercise of such authority, including, but not limited to, the right to enter and inspect the licensed establishment at any time during the business hours of the licensee, examine books and records of the licensee or applicant, and request information from a licensee or applicant at any time in furtherance of the exercise of this authority.
- B. Access to business premises. In exchange for a privilege liquor license, licensee agrees that at any time when a licensed business establishment is open for business, any City official or law enforcement representative shall have access to all parts and portions of the business establishment.

Sec. 4.13. - Sales to minors prohibited.

- A. It shall be unlawful for any licensee or the agent or employee to sell, give away, or otherwise provide liquor to any person under the age of 21 years or to allow or permit any person under the age of 21 years to handle, possess or consume liquor in or upon the licensed premises.
- B. Any licensee and/or business owner violating any portion of this section shall be deemed guilty of a misdemeanor.

Sec. 4.14. - Authority of City Council, authority of City Clerk.

- 1. 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 title 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:
  - A. The misrepresentation of any material fact by the applicant in obtaining a license under this title, 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 or she has an interest.

- B. If the licensee whose liquor license has been revoked for cause in any other jurisdiction in the state.
  - C. Selling or giving away liquor to any person under the age of 21 years.
  - D. 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 title while acting in any way in connection with the licensee's business.
  - E. 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.
  - F. 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.
2. Authority of the City Clerk. The failure to make timely payment of either license fees and/or penalties, on or before the 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 ajenized upon request by the licensee.

Sec. 4.15 - Grounds for denial, probation, suspension, revocation, disciplinary action procedure, appeal process.

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 City 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 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.
  10. Selling or giving away liquor to any person under the age of 21 years.
  11. If the licensee whose liquor license has been revoked for cause in any other jurisdiction in the State of Nevada.
  12. If any manager, bartender, agent, servant, officer or employee of the business operating an establishment under a licensee violates or causes or permits to be violated any of the provisions of the Chapter while acting in the course and scope of employment
  13. If any licensee or agent or employee of the business operating an establishment under a licensee 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.
  14. If the licensee or any agent or employee of the business operating an establishment under a licensee makes, causes or permits a sale or sales of any kind of liquor other than authorized by the class of license the licensee holds.
  15. Who the Sheriff Department 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.

- B. Probation, suspension or revocation. Any liquor 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 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 title;
  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 this 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;
  11. Any payments owed to the City.

Sec 4.16. - Probation, Suspension and revocation, Procedure, Hearing and appeal process.

- A. Probation procedure. Following an investigation, the department may place a business on probation, under the following procedure:

1. The department shall notify the licensee of the violation in person or by certified mail. The notice shall contain the following information:
    - a. The name and address of the licensee;
    - b. The violation which has occurred;
    - c. The term of the probation is 12 months;
    - d. The licensee has ten days to appeal the decision in writing to City Council.
  2. If the 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.
  3. If no other violations occur during the 12-month period, the probation will be cancelled.
- B. 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 licensee of the violation in person or by certified mail. The notice shall contain the following information:
    - a. The name and address of the licensee;
    - b. The violation which has occurred.
  2. The licensee has five days, excluding weekends and holidays, from the receipt of the notice to remedy the violation.
  3. If the licensee fails to remedy the violation, the liquor license will be suspended.
  4. If the 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 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 liquor 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 licensee at least ten business days prior to the time specified for hearing by certified mail or personal service.

- C. Hearing of revocation. In order to revoke a liquor 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 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.
  - 1. Notice of revocation. If the Council revokes the license, the 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.
- D. Appeal process 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.
  - 1. 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.

#### Sec. 4.17. - Reinstatement.

- A. A license which has been automatically revoked because a licensee has not complied with the annual license fee provisions of this section or because of nonoperational status, may be reinstated by the City Clerk if, not later than 30 days following the date license was automatically revoked, the licensee pays to the division the delinquent amount and unpaid yearly license fee, all late

payments, penalties that have accrued pursuant to the provisions of section , and a \$250.00 license reinstatement assessment.

- B. 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.

#### Sec. 4.18. - Licensee responsible for the acts of employees.

Every licensee shall be responsible for the acts of his or her 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 or her 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 or her license subject to said condition.

#### Sec. 4.19. - Application of other ordinances.

The terms and condition of this title 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 title does not preclude their application to liquor licenses.

#### Sec. 4.20. - Violation; penalty.

Any licensee and/or business owner violating any of the terms, conditions or provisions of this title 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 months, or by both such fine and imprisonment. Such conviction shall also subject the licensee to have his or her license revoked. Thereafter, any person adjudged guilty of a violation of this title or any of the terms, condition, and provisions thereof may, in the discretion of the City Council, be denied a license.

BILL # 291 BEING HEREBY PROPOSED on the 3rd day of February 2021.

BILL # 291 BEING HEREBY PASSED, APPROVED and ADOPTED this 17<sup>th</sup> of February 2021, by the following vote of the Council:

Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_ Abstentions: \_\_\_\_\_ Absent: \_\_\_\_\_

By: \_\_\_\_\_  
Roy Edgington, Mayor

Date: \_\_\_\_\_

Attest By: \_\_\_\_\_  
Kim Swanson, City Clerk

Date: \_\_\_\_\_