

**Ordinance 2016-013  
Bill No. 239**

**AN ORDINANCE MODIFYING FERNLEY MUNICIPAL CODE TITLE 3 BUSINESS LICENSE REGULATIONS, CHAPTER 1: GENERAL BUSINESS LICENSE PROVISIONS: § 3.01.03, BUSINESS LICENSE REQUIRED; EXCEPTIONS, STATE AND OTHER LICENSES REQUIRED, § 3.01.04 APPLICATION FOR LICENSE, § 3.01.05 REVIEW AND APPROVAL PROCESS, § 3.01.06 DUTIES OF LICENSEES, § 3.01.07 UNLAWFUL BUSINESS ACTIVITIES, § 3.01.08 QUARTERLY PAYMENTS, § 3.01.09 LICENSE FEE/TAX LIENS, § 3.01.10 INSPECTIONS, § 3.01.11 APPLICATION AND LICENSE FEES. THIS ORDINANCE TO BE EFFECTIVE JANUARY 1, 2017.**

THE CITY COUNCIL OF THE CITY OF FERNLEY DOES HEREBY ORDAIN AS FOLLOWS:

**TITLE 3: BUSINESS LICENSE REGULATIONS**

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

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

**(B) ACTIVITIES EXEMPT FROM LICENSE REQUIREMENT:**

1. Any private individual(s) who has no more than three (3) garage/yard sales per year;
- (2)
2. Any business that is specifically regulated under a separate Chapter of this Title which exempts the business from the provisions of this Chapter.
3. Any person who owns less than four (4) residential rental units.
4. Businesses located outside of the City that are hired by a licensed business or government agency for seminars or training of their employees.
5. Personal care activities of any person independently engaged as a personal care assistant as defined by NRS 449.794.
6. Activities of any federal or Nevada governmental quasi-governmental entity acting in its governmental capacity.
7. Wages earned as an employee.
8. Cottage Food operations
9. Farm to Fork events

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

1. Activities conducted by, or for the exclusive benefit of, organizations that are certified as tax-exempt entities pursuant to 26.U.S.C. § 501(c) (3), including but not limited to organizations operated for 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 Fernley Municipal Code and is properly permitted for that special event as a "vendor" as defined in Section 3.01.02 is exempt from the requirement of obtaining a business license during and for the special event only.
3. Hobby Crafter whose annual gross receipts are less than \$5,000.

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

**(D) STATE AND OTHER LICENSES REQUIRED:** Any business applying for or renewing a license under this Title which is required by Federal, State, County, or City regulation to hold a separate and independent license shall produce, exhibit, or otherwise prove to the Department that such license has been issued.

**3.01.04: APPLICATION FOR LICENSE:**

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

- (1) The full name of the applicant and business;
- (2) The physical and mailing address of the business;
- (3) The anticipated date on which the business will commence;
- (4) The type of business to be conducted under the license;
- (5) Sufficient information to calculate fees under this Title, including but not limited to a declaration of gross receipts for the business;
- (6) The applicant shall produce a legitimate, not expired, photographic driver's license, State issued identification card, or United States identification such as passport or military identification.
- (7) The application is to be signed by the applicant, a natural person, or in the case of an association or partnership, a partner or managing member with authority to

bind the association or partnership; in the case of a corporation or limited liability company, an executive officer or some person specifically authorized by the entity to sign the application, to which must be attached the written evidence of the authority.

(8) Background investigation if required for the license type.

(9) Inspector, Public Safety officer, and/or City Planner signatures if required for license type.

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

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

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

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

### 3.01.05: REVIEW AND APPROVAL PROCESS:

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

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

### (B) BACKGROUND INVESTIGATIONS (WHEN REQUIRED)

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

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

- a. Auto Pawn
- b. Sexually Oriented Businesses
- c. Pawnbrokers
- d. Check Cashing Services/Payday Loan Services
- e. Secondhand Dealers

- f. Liquor License
- g. Day Care
- h. Solicitor Permit
- i. Gaming

3. No license or work permit may be issued until the prescribed license or permit fee, and any fingerprint and investigation fee, has been paid to an authorized fingerprint agent, law enforcement agency or City staff.
4. As defined by NRS 239B.010(1)(a) and P.L. 92-544 (the current version of NRS 239B.010(1)(a) and P.L. 92-544 shall govern): each applicant for a City business license or work permit set forth in this section shall provide a full set of his or her fingerprints to an authorized fingerprint agent as a condition of issuance of the business license or work permit. Each applicant shall also provide all necessary information to the authorized fingerprint agent in order to complete the fingerprint background process.
5. The authorized fingerprint agent will submit the fingerprints of an applicant for a business license or permit set forth in section, plus any required fees and any information required for the background check, to the Central Repository for Nevada Records of Criminal History for a statewide background check and for submission by the Central Repository to the FBI to obtain the FBI nationwide
6. Background check of the applicant. The Nevada Department of Public Safety is hereby authorized to exchange such fingerprint data with the FBI for purposes of the background check. The criminal history will be provided to the license department for evaluation and will not be shared with any other City staff.
7. Failure of an applicant for a business license or permit set forth in this section to submit to full fingerprinting or to provide information required by this section is grounds for denial of the application.

(C) Licenses will be placed on the first available City Council agenda for action;

(D) Licenses shall show the name and address of the licensee, name of business, type of business, date business license was issued, date of expiration, and any limitations and restrictions imposed by the Council or licensing department as conditions of the approval;

(E) License shall be issued promptly, within ten (10) days of City Council approval.

(F) For purposes of this section, and for all other purposes, a business license issued pursuant to this title is "expired" if it is not renewed by payment of all fees and penalties by the expiration date on the business license.

- (G) No license issued pursuant to this Title shall be construed to condone or permit the transaction of any business or the performance of any act which is otherwise contrary to the law.
- (H) Failure to provide documentation of gross receipts. No license shall be issued if documentation of annual gross receipts is not provided to the business license department.
- (I) No license shall be issued or renewed for the conduct of any business on any premises owing delinquent amounts of money to the City of Fernley for any purpose until such delinquent amounts of money, and penalties, if applicable, have been fully paid.
  
- (J) Every license issued pursuant to this Title, whether or not explicitly so stated, is subject to all other provisions of federal, state, and local law with respect to licenses, permits, safety and environmental standards, prohibited acts or conditions and any other applicable provisions.

### 3.01.06: DUTIES OF LICENSEES

- (A) Comply with governing law. Ascertain and comply at all times with all laws and regulations applicable to such licensed businesses, including but not limited to, any changes in the Fernley Municipal Code that may be imposed after the issuance of a license.
- (B) Operate properly. Avoid all prohibited practices or conditions which do or may affect the public health, safety, morals, or welfare.
- (C) Supervise employees. Be responsible for the conduct of all employees or agents thereof if such conduct would violate the law if engaged in by the licensee.
- (D) Display license. Display all licenses issued pursuant to this Title in a conspicuous place at the licensed business. Every person having a license and not having a fixed place of business shall carry such license with him at all times while carrying on the business for which the license was issued and shall exhibit the license whenever requested by any authorized person. The issued and displayed license shall not be modified in any way that alters the content.
- (E) Valid only at location shown on license; adding or changing location requires a new license. A reprint fee may apply.
  - 1. A person may not change the location stated on the license or add a new location to an existing license. A new license is required for each new location and must be obtained in the manner provided for an initial application.
  - 2. If permitted by the licensing department, a license is transferred to a new location, the licensee shall not operate the business at the former location.
  - 3. Licenses are not transferable. If the business changes ownership, a new application, inspection, and applicable fees are required.
  - 4. A separate license is required for each establishment, branch, or location of a business.

(F) Maintain records. Business owner is responsible for maintaining records of the business

1. Keep such records as may be necessary to determine the amount of business license fees, or any other record required by this Title.
2. Preserve such records for not less than four (4) years or until any proceedings under the Fernley Municipal Code pertaining to the business are concluded;
3. Make records available for inspection by the City upon demand at reasonable times,

(G) Permit inspection or audit. Permit reasonable inspections of the business and examination of its books by the City and all authorized personnel.

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

(I) Cease business. Upon expiration, revocation, or suspension the licensee shall immediately cease conducting business.

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

(A) It is unlawful for any person to:

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;

### 3.01.08: QUARTERLY PAYMENTS (IF PERMITTED)

(A) Businesses whose annual business license fees exceed \$10,000 per fiscal year may request to pay said fees to the licensing department quarterly.

(B) A written request for permission to pay quarterly must be submitted to the licensing department upon new business license application or no less than 30 days prior to the expiration date on the business license for renewals.

(C) The licensing department will review the request and respond in writing within 10 business days, either approving or denying the request for quarterly payments.

(D) Upon approval of the request, quarterly payments will be made to the licensing department as follows:

1. 25 percent of the annual gross receipts of the business paid no later than the 30<sup>th</sup> day following the end of each quarter for four (4) quarters of the same fiscal year.

(A) Quarterly payment request will be cancelled if any one (1) payment is past due.

### 3.01.09: LICENSE FEE/TAX LIENS:

(A) License Fee/Tax—Liens on property where located; enforcement.

1. Any license fee based on any business within the City of Fernley under the provisions of this Title of the Fernley Municipal Code shall constitute a lien upon the real and personal property of the business upon which the fee was levied and upon the real and personal property which the business is conducted until the fee is paid in full. For the purpose of this section, any general or subcontractor performing work in the City, and whose business is located in city limits, for which a license is required shall be conducting his business at any premises in the City where he is performing work for which a license is required by this Title.

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

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

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

### 3.01.10: INSPECTIONS

(A) Inspection of licensed businesses:

1. No person shall refuse entry to any City inspector attempting to enter any premises for the purpose of inspection, if such entry is attempted during normal business hours or during reasonable hours after business hours when there are employees on the premises to let the inspector in. Such entry shall be permitted not only to areas open to the public, but also to all other areas, provided that no employee shall be required to accompany any inspector in any area that the employee deems to be dangerous.

2. It is the policy of the City that, immediately upon arriving at the premises to be inspected, the City inspector ordinarily will identify himself/herself to an employee on the premises, showing identification if the employee is not acquainted with the inspector. If there is no employee at the scene, the inspector may enter any area that is open to the public at the time without identifying himself/herself. A law enforcement officer or any City employee making lawful investigation requiring a delay in identification need not identify himself/herself immediately, provided that no person shall be required to admit any such unidentified person to any premises.
3. If any City inspector is not permitted to enter any place or any part of any premises for inspection, the inspector shall not use force but shall leave the premises and seek a search warrant or other appropriate court order to make entry possible. However, inspection of a closely regulated business may be required without a warrant.
4. No person and no business entity shall be required to disclose any trade secret to any City inspector. If there is a dispute between a City inspector and any person or business entity over whether any location or thing is exempt from inspection because it contains a trade secret, an attempt shall be made to settle matter by devising a way to open part or all of the area or device for inspection, with the trade secret information removed or covered. If the matter cannot be resolved, the City inspector shall not look at the place or item until and unless the City has obtained a court ruling permitting inspection of the item or place.
5. Failure to comply with sections A1-A4 may result in revocation of license.

### 3.01.11: APPLICATION AND LICENSE FEES:

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

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

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

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



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

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

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

(F) Inspection fees and fees for permits issued by any City department, must be paid prior to the issuance or renewal of a business license. Regarding renewal of a license, if such fees are not paid by the due date for payment of the business license fee (including the grace period), such fees are deemed to be delinquent and shall be added to the delinquent business license fee for purposes of calculating the penalty. A business license may not be renewed unless all such fees are paid.

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

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

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

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

Proposed the 7<sup>th</sup> day of September, 2016

PASSES, APPROVED, and ADOPTED this 5th day of October, 2016, by the following vote of the Council:

Ayes: 5 Nays: 0 Abstentions: 0 Absent: 0

  
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Roy Edgington, Mayor

Date: 10/5/2016

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

Date: 10/5/2016