

**Bill No. 237**

**AN ORDINANCE MODIFYING FERNLEY MUNICIPAL CODE TITLE 3 BUSINESS LICENSE REGULATIONS, CHAPTER 1 GENERAL BUSINESS LICENSE PROVISIONS, SECTION 3.01.02 DEFINITIONS, INCLUDING BUT NOT LIMITED TO GROSS RECEIPTS, EXPANDING THE TYPES OF BUSINESSES DEFINED, ETC.**

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

**TITLE 3: BUSINESS LICENSE REGULATIONS**

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

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

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

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

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

**BUSINESS OR DOING BUSINESS:** Any business, commercial enterprise, trade, occupation, calling, profession, vocation, or activity engaged in, conducted, carried on by any person, his agent or employee in an attempt and with the intent to gain business for profit or having conducted business within the City of Fernley. Including, but not limited to:

- (A) Any activity conducted by a person for which such person is required to file with the Internal Revenue Service for the activities; or
- (B)The performance of services for compensation that are not normally subject to withholding taxes, including but not limited to, independent contractors and commissioned sales agents.

(C) Business includes any non-residential office unit or units, industrial warehouses leased out or rented out or offered for rent or lease, or a property with more than (4) residential units leased or rented or offered for lease or rent

(D) Anyone who has a contract with the City of Fernley, other than a contract for employment.

The terms BUSINESS or DOING BUSINESS do not include activities conducted by, or for the exclusive benefit of, organizations that are certified as tax exempt entities pursuant to 26 U.S.C. § 501(c) or authorized by Nevada State Law as a non-profit organization, including but not limited to organizations operated for religious, charitable, scientific, literary, educational, or fraternal purposes or a business whose primary purpose is to create or produce motion pictures. Tax exempt, non-profit organizations, and businesses deemed exempt from a State business license are required to register the entity with the City licensing department.

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

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

1. "Child care facility" means:

- a. An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;
- b. An on-site child care facility; as defined in NRS 432A.0275
- c. A child care institution; as defined in NRS 432A.0245 or
- d. An outdoor youth program; as defined as NRS 432A.028
- e. Day care center, as defined by the current version of Fernley Development Code, Zoning:
  - i. Day Care Center, large: a facility which provides less than 24-hour care or supervision for 5 or more children who are not related by blood, marriage, or adoption to the owner, operator, or manager, whether such facility operates day or night, with or without compensation for such care, and with or without stated education purpose.
  - ii. Day Care Center, small: a facility which provides less than 24-hour care or supervision of 4 or fewer children who are not related by blood, marriage, or adoption to the owner, operator, or manager, whether such facility operates day or night, with or without compensation for such care, and with or without stated educational purpose.

2. "Child care facility" does not include:

- a. The home of a natural parent or guardian, foster home as defined in [NRS 424.014](#) or maternity home;
- b. A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility;
- c. A home in which a person provides care for the children for not more than four (4) weeks if the person who provides the care does not regularly engage in that activity;
- d. A location at which an out-of-school-time program is operated; as defined in NRS 432A.027.

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

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

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

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

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

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

5. A contractor does not include an owner of a planned unit development who enters into one or more oral or written agreements with one or more general building contractors or general engineering contractors to construct a work of improvement in the planned unit development if the general building contractors or general engineering contractors are licensed pursuant to this chapter and contract with the owner of the planned unit development to construct the entire work of improvement.

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

**COTTAGE FOOD OPERATIONS:**

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

**COUNCIL:** The City Council of the City of Fernley.

**COUNTY:** Lyon County, a political subdivision of the State of Nevada.

**DEPARTMENT:** The City of Fernley Clerk's Office.

**ELECTRIC ENERGY PROVIDER:** Any business or local government that provides electric energy to the public, regardless of whether they are regulated by the Public Service Commission of Nevada.

**ENTERPRISE:** Any trade, calling, service, profession, or business venture.

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

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

1. Except as otherwise provided in subsection 3, a farm is not a "food establishment" for purposes of holding a farm-to-fork event provided that
  - a. Any poultry and meat from a rabbit that is served at the farm-to-fork event is raised and prepared on the farm and is butchered and processed on the farm pursuant to the requirements of chapter 583 of NRS; and
  - b. Any other food item that is served at the farm-to-fork event, including, without limitation, salads, side dishes and desserts, are prepared on the farm from ingredients that are substantially produced on the farm.
  
2. A farm which holds a farm-to-fork event shall, before a guest consumes any food, provide each guest with a notice which states that no inspection was conducted by a state or local health department of the farm or the food to be consumed, except as otherwise provided in subsection 1.

3. A farm which holds more than two events in any month that would otherwise qualify as farm-to-fork events becomes a food establishment for the remainder of that calendar year subject to all of the requirements of this chapter and any regulations adopted pursuant thereto concerning food establishments.

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

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

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

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

**GARAGE:** As defined by NRS 487.540. (The current version of NRS 487.540 shall govern). "Garage" means a business establishment, sole proprietorship, firm, corporation,

association or other legal entity that performs any of the following services on motor vehicles.

1. Repair or replacement of the
  - a. Engine;
  - b. Brake system;
  - c. Transmission system;
  - d. Drivetrain system;
  - e. Heating and air-conditioning system;
  - f. Cooling system;
  - g. Muffler and exhaust system;
  - h. Electrical system;
  - i. Electrical charging system; or
  - j. Fuel injection or carburetion system;
  - k. Engine tune up;
  - l. Diagnostic testing;
  - m. Alignment; or
  - n. Oil change and lubrication.

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

**GARAGE SALE:** All occasional and casual sales of personal property opened to the public and held on the seller’s own residential premises including all sales entitled "garage sale", "lawn sale", "attic sale", "rummage sale" "estate sale", or "yard sale" which do not extend beyond seventy-two (72) hours in duration.

**GAS PROVIDER:** Any business or local government that provides gas service to the public, regardless of whether they are regulated by the Public Service Commission of Nevada, including but not limited to, natural gas and propane gas.

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

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

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

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

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

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

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

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

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

**KENNEL:**

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

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

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

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

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

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

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

Activities conducted by, or for the exclusive benefit of, organizations that are certified as tax-exempt entities pursuant to 26.U.S.C. § 501(c) (3), including but not limited to



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

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

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

**PREMISES:** Actual space of a particular business which would include all buildings, improvements, surrounding sidewalks, and designated parking.

**PROFESSIONAL:** One whose practice of a profession for any type of compensation as an employee requires advanced education and holds a license, certificate, registration, permit, or similar type of authorization issued by a regulatory body such as a state licensing agency, board, or commission or who is regulated pursuant to the Nevada Supreme Court Rules. Employees of licensed professionals or contractors are not required to obtain a City of Fernley business license.

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

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

**RESIDENTIAL DWELLING UNIT OR UNITS:** As defined by the current version of the Fernley Development Code, includes, but not limited to:

1. Single-family dwelling: A single detached building which is occupied by not more than one family, and which contains not more than one dwelling unit.
2. Multi-family dwelling: A building or buildings on a single parcel which are occupied or which are arranged, designed, and intended to contain more than one dwelling unit, but not including hotels, motels, boarding houses or otherwise provided accessory dwellings.
  - a. Includes but is not limited to, duplex, tri-plex, four-plex units, apartments, townhouses, and condominiums.

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

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

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

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

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

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

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

**SEXUALLY ORIENTED BUSINESS**: Any business, if permitted by Fernley Development Code, that offers services, materials, goods, or products which are characterized by an emphasis on matter depicting, describing, or relating to nude or semi-nude persons or sexual activities between persons or observation thereof. These business 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.

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

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

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

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

**TELECOMMUNICATIONS COMPANY:** Any business or local government which provides telecommunications services who holds a Certificate of Public Convenience and Necessity issued by the Public Service Commission of the State of Nevada and derives intrastate revenue from the provision of that service to retail customers.

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

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

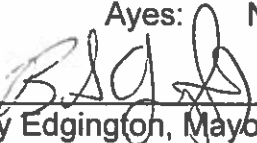
**VENDOR:** A person or business who sells products or services.

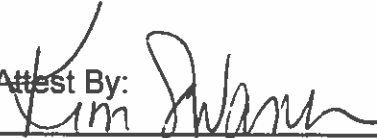
**WAREHOUSE:** a commercial or industrial building used for storage or manufacture of goods.

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

Proposed the 17<sup>th</sup> day of August, 2016

PASSES, APPROVED, and ADOPTED this 7<sup>th</sup> day of September, 2016, by the following vote of the Council:

Ayes:	Nays:	Abstentions:	Absent	
				Date: <u>7 Sept 2016</u>
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Roy Edgington, Mayor				

Attest By:				
				Date: <u>9/7/2016</u>
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Kim Swanson, City Clerk				