

Bill No. 245
ORDINANCE 2016-017

AN ORDINANCE MODIFYING FERNLEY MUNICIPAL CODE TITLE 3 BUSINESS LICENSE REGULATIONS, BY ADDING CHAPTER 5: SPECIALTY BUSINESS LICENSES, ADDING RULES AND REGULATION TO BUSINESSES CONDUCTING CHECK CASHING/PAYDAY LOAN SERVICES, AUTO PAWN, PAWNBROKERS, SEXUALLY ORIENTED BUSINESSES, AND SECOND HAND DEALERS.

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

Chapter 3: Business License Regulations

Chapter 5: Specialty Business License Regulations

3.05.01 PURPOSE AND SCOPE

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

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

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

3.05.02 REGULATION OF SPECIALTY BUSINESSES

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

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

- (A) A person who has been convicted of a crime involving theft, fraud, dishonesty, receiving or possessing stolen property, any controlled substance violation whatsoever, or any sex offense;

- (B) A person whose license, issued pursuant to the provisions of this chapter, or those ordinances or statutes of any other agency lawfully engaged in the licensing or regulation of the business has been revoked for cause;
- (C) A and B are also grounds for denial of renewal of a business license.

3.05.03 LICENSE REQUIRED

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

3.05.04: APPLICATION AND SET UP FEES:

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

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

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

3.05.05 BACKGROUND INVESTIGATIONS: (REQUIRED)

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

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

- (C) An applicant for any of the following business licenses or permits shall comply with the provisions of this section and any other FBI or law enforcement requirements necessary to obtain a FBI nationwide background check:
- (D) No license or work card may be issued until it has been approved and all fees have been paid and the license or card has been approved.
- (E) Background check of the applicant. The Nevada Department of Public Safety is hereby authorized to exchange such fingerprint data with the FBI for purposes of the background check. The criminal history will be provided to the license department for evaluation and will not be shared with any other City staff.
- (F) Failure of an applicant for a business license or permit set forth in this section to submit to full fingerprinting or to provide information required by this section is grounds for denial of the application.

3.05.06 REVIEW AND APPROVAL PROCESS:

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

(B) ZONING AND PLANNING REVIEW

- (1) Locations permitted for sexually oriented businesses are regulated by Nevada Revised Statute Chapter 201 and Fernley Development Code, restricting their close proximity to established facilities such as, but not limited to, religious assemblies, parks, schools and residential areas. Licensees shall comply with these regulations.
- (2) Sexually oriented businesses are required to comply with the location restrictions as outlined in Nevada Revised Statute and Fernley Development Code.
- (3) It is unlawful for any business required to be licensed pursuant to this chapter to be operated or conducted, either in full or part time, from a residential location.

(4) Prior to the issuance of any business license by the license department, the applicant must submit, on a form provided by the division, a request for required department signature inspections, to determine if the proposed business operation is in conformity with the requirements of the building, planning, public works, water, wastewater, fire and code enforcement departments and divisions. Upon submission of the business license application and request for required department signature inspections, the premises must be inspected by all designated departments and divisions.

3.05.07 DUTIES OF LICENSEE

(A) Every licensee is responsible for the acts of his employees, agents and servants committed while on the licensed premises and during the course of employment away from the licensed premises, and every licensee must accordingly use adequate care in the selection of his employees. In any licensing suspension, limitation or revocation proceedings, the fact that the licensee did not have actual knowledge of the events complained of is no defense, and every licensee hereunder accepts his license subject to said condition.

(B) Each licensee shall not knowingly fail to report or conceals from the council a full disclosure of the names of all persons having an interest in the ownership of, or having an equitable or beneficial right to the profits under a license in which he has an interest;

3.05.08 TRANSFER OF LICENSE

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

AUTOPAWNS AND PAWNBROKERS

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

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

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

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

3.05.09 RECORDS TO BE KEPT AND TRANSMITTED

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

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

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

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

3.05.10 REPORTS OF TRANSACTIONS

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

3.05.11 REMOVAL OF PLEDGED PROPERTY

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

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

3.05.12 PAWN TICKETS

(A) Any auto pawn broker or pawnbroker doing business in the City shall furnish to the pledgor a printed pawn ticket

- 1) Plainly numbered
- 2) Containing the name of the pledgor,
- 3) A description of the article or thing pawned or received,
- 4) Date of receipt,
- 5) The amount loaned,
- 6) The time for redemption,
- 7) Amount to be paid on redemption, and
- 8) Name of the pledgee.

(B) The printed pawn ticket shall be marked in such a manner that the amounts of principal and interest paid by the pledgor can be clearly designated.

(C) Each payment shall be entered upon the receipt and shall designate how much of the payment is being credited to principal and how much to interest, with dates of the payments shown thereon.

(D) The pawnbroker shall affix a tag to each article, or thing, upon which tag shall be inscribed a number of legible characters, the number shall correspond to the number on the pawn ticket,

(E) The number shall also be entered in the records required to be kept by this chapter.

(F) In the case of motor vehicles, the description must be marked model, color, year, and vehicle identification number of the particular vehicle.

3.05.13 PROPERTY REDEMPTION

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

3.05.14 ADDITIONAL LICENSE REQUIRED TO USE MOTOR VEHICLE AS

COLLATERAL FOR LOAN.

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

3.05.15 STORAGE OF MOTOR VEHICLES WHEN PAWNED.

- (A) Autopawn licensees shall provide and maintain at least one place of storage within the city limits, sufficient in size to handle the number of motor vehicles as outlined in the Fernley Development Code.
- (B) The vehicles shall be held at the place of storage for the same period of time that personal property must be held at the place of business and may only remove the motor vehicle under the same conditions that personal property may be removed. Motor vehicle storage shall be enclosed by a chain link fence or block wall. Gates or doors for access to the area shall be kept closed and locked when the premises are not open for business.
- (C) A pawnbroker shall not charge more than \$3 per day for the storage of a motor vehicle which is collateral for a loan.

3.05.16 LIABILITY INSURANCE WHEN MOTOR VEHICLES ARE PAWNED

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

3.05.17 CLEAR CHAPTER REQUIRED FOR PAWNING MOTOR VEHICLE

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

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

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

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

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

3.05.20 UNLAWFUL ACTS.

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

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

3.05.21 CHECK CASHING SERVICE/PAYDAY LOAN SERVICES

- (A) Regulations for check cashing services and payday loans, as well as deferred deposit loans are outlined in NRS 604A. These regulations include but are not limited to Regulation Z (Truth in Lending Act) and disclosure requirements.
- (B) All businesses operating as check cashing service, payday loan or deferred deposit service are required to obtain and maintain a license from the Nevada Commissioner of Financial Institutions. A licensee who fails to renew his/her State license may be subject to revocation of their City of Fernley business license under this Chapter.
 - (1) The Commissioner of Financial Institutions determines the approval or denial of the State application.
- (C) City business licenses issued under this chapter are subject to all State and Federal laws applicable to deferred deposit, check cashing and payday loan services.
- (D) Check cashing services include any person or enterprise engaged in the business of cashing checks for a fee or service charge.
- (E) Payday loan services include any person or enterprise engaged in the business of accepting a personal check drawn upon the account of the customer or other written authorization for electronic money transfer for a specified amount from the account of the customer, for a fee or service charge.
 - i. Deferred deposit, a type of payday loan, includes transactions pursuant to a loan agreement where a customer tenders a check drawn upon his/her draft account and the deferred deposit business operator provides the customer with money equal to the face value of the check, less any fees charged for the transaction. The deferred deposit business operator agrees, for a period of time specified in the contract, not to cash the check or execute an electronic transfer of money for the amount specified in the written authorization.
- (F) Licensees must comply with restrictions on location where licensee may conduct business as defined by the current version of NRS 604A.655. Licensees must comply with any restrictions outlined by Nevada Revised Statute and Fernley Development Code.
- (G) Exempt from this chapter (As defined by the current version of NRS 604A.250).
 - (1) Except as otherwise provided in the current version of NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage brokers, mortgage bankers, thrift companies or

insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.

- (2) A person who is primarily engaged in the retail sale of goods or services who:
 - (a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than \$2; and
 - (b) Does not hold himself or herself out as a check-cashing service.
- (3) A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.
- (4) A person who holds a non-restricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.
- (5) A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.
- (6) A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.
- (7) A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, high-interest loan service or Chapter loan service.
- (8) A real estate investment trust, as defined in 26 U.S.C. § 856.
- (9) An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.
- (10) An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.
- (11) A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.
- (12) Any firm or corporation:
 - (a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;
 - (b) Approved by the Federal National Mortgage Association as a seller or servicer; and
 - (c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.
- (13) A person who provides money for investment in loans secured by a lien on real property, on his or her own account.
- (14) A seller of real property who offers credit secured by a mortgage of the property sold.

- (15) A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high-interest loan service or Chapter loan service.

3.05.22 SECOND HAND DEALERS

- (A) **DEFINITIONS:** For the purposes of this Chapter, unless the context otherwise requires, the following definitions apply:
- (B) **COLLECTIBLE:** Means an object of personal property that has special value primarily because of its unique characteristics and the high level of demand for the object.
- (C) **DROP-OFF CENTER:** Means a collection site where recyclable materials may be taken by persons and deposited into designated containers and may be subject to a franchise agreement.
- (D) **JEWELRY:** Means merchandise customarily kept in retail (including estates) jewelry stores for sale, including, but not limited to, precious and semiprecious stones; watches; clocks; rings; bracelets; articles made in whole or in part of gold, silver, platinum or other precious or semiprecious metal and, in addition thereto, shall also include collectibles and art objects.
- (E) **RECYCLABLE MATERIALS:** Defined in the current version of NRS 444A.013 and includes solid waste that can be processed and returned to the economic mainstream in the form of raw materials or products, as determined by regulations adopted by the Nevada State Environmental Commission and the Nevada State Division of Health.
- (F) **SECONDHAND DEALER:** Means any person who engages in or conducts the business of buying, selling or exchanging old gold, old silver, platinum or articles of platinum, silverware, and secondhand jewelry or other precious metals, stones or household electronic devices and appliances.

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

3.05.23 EXEMPTIONS

(A) The following are not required to get a license under this section, but are required to register with the city and will not be charged an annual license fee.

- 1) All charitable organizations which are recognized as 501 (C) 3 are exempt from the provisions of this section.

(B) The following will not be subject to the background investigation process but will be required to register with the department and pay the applicable fees.

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

3.05.24 LICENSING AS PAWNBROKER REQUIRED FOR CERTAIN TRANSACTIONS

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

3.05.25 PURCHASE FROM MINORS AND JUVENILES

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

3.05.26 RECORDS AND REPORTS TO BE KEPT AND TRANSMITTED

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

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

(D) Each record shall contain:

- 1) The date and time of the transaction.
- 2) The name or other identification of the person or employee conducting the transaction.

- 3) The name, age, residence address, driver's license number and general description of the person with whom the transaction is had.
 - 4) If the transaction involves household furniture, the license number of the vehicle delivering each purchase.
 - 5) In the case of watches, the description must contain the name of the maker and the number of the works or the case. In the case of jewelry, all letters and marks inscribed on the jewelry must be included in the description symbols or inscriptions, watch works numbers and owner-applied markings
 - 6) The price paid
 - 7) The record and all goods received must at all times during the ordinary hours of business be open to the inspection of any peace officer.
- (E) The provisions of this section do not apply to any transaction which involves buying, selling or trading used books, clothing, periodicals, sound recordings, or coins which are not part of any jewelry.
- (F) The records required to be kept per subsection A of this section are required to be kept and maintained on the premises for a minimum of three years from the date of original transaction.

3.05.27 LICENSEE RESPONSIBLE FOR THE ACTS OF EMPLOYEES.

Every licensee shall be responsible for the acts of his employees committed during the course and scope of employment. In any license suspension, limitation or revocation proceedings, the fact that the licensee did not have actual knowledge of the events complained of shall be no defense, and every licensee hereunder accepts his license subject to said condition.

3.05.28 SEXUALLY ORIENTED BUSINESSES

Definitions:

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

1. Adult bookstore, adult novelty business, or adult video store or a retail establishment having as a significant portion of its stock in trade in any one or more of the following:
 - a. Books, film, digital video discs, compact discs, video cassettes, slides, magazines and other periodicals or other written, oral or visual representations that are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas; or
 - b. Products known generally as, but not limited to, adult novelties and gifts, instruments, devices, accessories or paraphernalia, including items designed or marketed primarily for sadomasochistic activity, that are characterized by an emphasis for use during sexual conduct or with specified anatomical areas.
2. Adult club, a public or private establishment, which may charge admission for entrance, that regularly features nude or topless entertainers, bottomless entertainers, strippers, exotic dancers, or other live performances that are distinguished or characterized by the exposure of specified anatomical areas or that advertises, or holds out to the public that adult entertainment is provided or advertises or implies that sensual or sexual entertainment is provided, and, that may operate in the manner of a tavern.
3. Adult motion picture theater, an enclosed building, or a portion thereof, used for presenting motion pictures, films, video cassette, compact disc or digital video disc recordings, slide photographs, or other motion or still pictures, that are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
4. Adult video arcade, any establishment, or any portion thereof, containing any manually operated, coin or slug operated, or electrically or electronically operated or controlled, still, motion picture, film, compact disc, digital video disc, or video cassette machines, projectors, players, or other image producing devices that are maintained to display images to one or more persons per machine or per viewing room at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
5. Brothel, any orderly room, structure, or building where prostitution occurs.

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

- b. chiropractors, physicians, physical therapists, massage therapists, psychologists, social workers or marriage family counselors when performing functions under or pursuant to their respective licenses.

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

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

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

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

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

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

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

3.05.29 ALCOHOL SALES OR CONSUMPTION AT SEXUALLY ORIENTED BUSINESS:

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

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

3.05.30 LICENSEE'S AGREEMENT TO CONFORM TO LAW

(A) Acceptance of a specialty license by a licensee constitutes an agreement on the part of such licensee to be bound by all of the regulations of the city as the same are now, or may hereafter be amended or promulgated. It is the sole responsibility of the licensee to keep himself informed of the content of all such rules and regulations, and ignorance therefore shall not excuse violations.

3.05.31 BROTHELS

(A) Health examinations for prostitutes

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

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

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

a sexually transmitted infection or other contagious or infectious sexually transmitted disease ("STD"). The Chief of Police must be notified by the licensee of ineligibility of a prostitute to work; and

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

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

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

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

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

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

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

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

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

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

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

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

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

3.05.33 WORK CARD REGISTRATION REQUIRED.

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

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

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

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

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

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

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

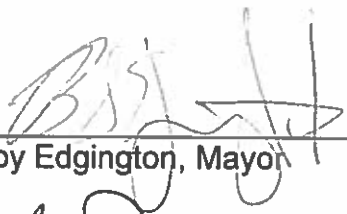
(H) All employees of any brothel in the City must maintain a current work card with the operator of a licensed brothel and the licensee is required to maintain a work card for each employee. The work card must be kept on premises and available for inspection at all times. A prostitute may change place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

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

Proposed the 2nd day of November, 2016

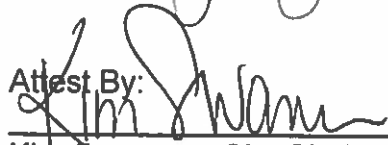
PASSES, APPROVED, and ADOPTED this 16th day of November, 2016, by the following vote of the Council:

Ayes: Nays: Abstentions: Absent



Roy Edgington, Mayor

Date: 11/16/16

Attest By: 

Kim Swanson, City Clerk

Date: 11/16/16

