



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: February 2, 2017

Staff Contact: Susan Pansky, Special Projects Planner and Adriana Fralick, Chief Deputy District Attorney

Agenda Title: For Possible Action: To introduce, on first reading, an ordinance amending the Carson City Municipal Code Title 4, Licenses and Business Regulations, Chapter 13, Liquor Board and Liquor License and Sales, by amending Section 4.13.010, Definitions, to modify existing definitions for "Beer", "Business License Division", "Director" and "Wine", and to add definitions for "Brew Pub", "Brewery", "Craft Distillery", "Intoxicating Liquor", "License", "On Premise" and "Wholesale Dealer"; amending Section 4.13.030, Powers and Duties of the Board, to allow for the appointment of a Hearings Officer to grant or deny applications and to consider appeals of Hearings Officer decisions; adding Section 4.13.035, Powers and Duties of the Hearings Officer, to set forth duties for the Hearings Officer; amending Section 4.13.040, License Required, to state that failure to obtain a license is a misdemeanor; adding Section 4.13.045, Fees, to identify the right to set certain fees and establish a fee schedule; amending Section 4.13.050, Classes of Licenses–Separate Entity, to add Brew Pub, Brewery and Craft Distillery Liquor Licenses; amending Section 4.13.060, Application for License, to change the application for a license from the Board to the Hearings Officer and to require a sworn affidavit by the Liquor Manager that all employees will complete server training; amending Section 4.13.070, Investigation–Fees, to exempt wholesale dealers from the background investigation requirement and to remove specific fee amounts; amending Section 4.13.080, Investigations–Duties of Sheriff, to change the reporting of background investigations from the Board to the Business License Division; amending Section 4.13.100, License–Procedure, to change the consideration of licenses for approval and denial from the Board to the Hearings Officer and to exempt wholesale dealers from the appearance requirement; adding Section 4.13.102, Appeals, to set forth provisions for the appeal of Hearings Officer Decisions to the Board; amending Section 4.13.105, License–Application Fees, to remove specific fee amounts; amending Section 4.13.110, License–Fees, to remove specific fee amounts, to state that license fees will be prorated and to modify provisions for penalties related to non-payment of license fees; amending Section 4.13.115, Death of or Change to Person Listed on a License, to require that an updated application be filed when the liquor manager changes and that a change in liquor manager requires approval by the Hearings Officer; amending Section 4.13.120, License–Transferability, Use and Reactivation, to allow for certain changes to existing licenses, to allow for the serving, sale and dispensing of alcohol in the public right-of-way with an encroachment permit, to allow for reactivation of existing licenses under certain circumstances and to remove specific fee amounts; amending Section 4.13.125, Issuance or Denial of License, to change the granting or denying of licenses from the Board to the Hearings Officer, to add an additional offense within the last five years which would make a person unsuitable for a liquor license and to allow for proof of an approved payment plan or similar arrangement when a person is in arrears in child support payments; changing Section 4.13.135, Reactivation of Prior Existing License to Section 4.13.135, Enforcement Authority, and to outline various enforcement duties; amending Section 4.13.140, Grounds for Disciplinary Action, to add a provision consistent with NRS that the Board has the power to recommend to the State Department of Taxation suspension or revocation of a license; amending Section 4.13.150, Disciplinary Action Procedure and Penalties, to allow the Sheriff to recommend investigation of the conduct of any licensee, to allow the director to investigate the conduct of any licensee, to change the timeframe in which a penalty may be imposed for criminal citations from six months to 12 months, to reduce the fine for the third offense for criminal citations related to the sale of liquor from \$1,500.00 to \$1,000.00, to add a provision consistent with NRS that the Board has the right to suspend or revoke summarily any license under certain circumstances and to change the annual activity report due date from December to January; amending Section 4.13.210, Possession of Open Liquor and Consumption of Liquor in Public Prohibited, to provide an exception when an encroachment

permit is obtained to occupy the public right-of-way adjacent to the business. (Susan Pansky, SPansky@carson.org and Adriana Fralick, AFralick@carson.org)

Staff Summary: The Board of Supervisors has requested various changes to the Liquor Ordinance, primarily to allow for the review of liquor license applications by a Hearings Officer, to provide a background check and appearance exemptions for wholesale dealers, to allow for the selling, serving and dispensing of alcohol within the public right-of-way adjacent to a business holding a valid liquor license with the approval of an encroachment permit and to remove specific fee amounts from the ordinance in favor of adopting them separately by resolution.

Agenda Action: Ordinance - First Reading

Time Requested: 1 Hour

Proposed Motion

I move to introduce, on first reading, Bill No. __, an ordinance amending Title 4, Licenses and Business Regulations, Chapter 13, Liquor Board and Liquor Licensing and Sales, as published on the agenda.

Board's Strategic Goal

Efficient Government

Previous Action

None

Background/Issues & Analysis

Please see the attached memo for explanation of the proposed ordinance changes.

Applicable Statute, Code, Policy, Rule or Regulation

Chapter 4.13, Liquor Board and Liquor Licensing and Sales

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number: N/A

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: A business impact statement is not required in this case pursuant to NRS 237.080, Section 2 as the proposed reduction in the fine for the third offense related to the sale of liquor from \$1,500.00 to \$1,000.00 does not impose a direct and significant burden on a business or directly restrict the formation, operation or expansion of a business.

Alternatives

The board may modify or deny the proposed changes.

Attachments:

- 1) Memo to Board of Supervisors dated January 24, 2017
- 2) Ordinance
- 3) Draft Resolution for Liquor License Fee Schedule

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)



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MEMORANDUM

Board of Supervisors Meeting of February 2, 2017

TO: Board of Supervisors

FROM: Susan Pansky, AICP
 Special Projects Planner

DATE: January 24, 2017

SUBJECT: **Proposed Amendments to Carson City Municipal Code, Chapter 13, Liquor Board and Liquor License and Sales**

The Board of Supervisors has directed staff to modify the currently Liquor Ordinance, primarily to allow for the review of liquor license applications by a Hearings Officer, to provide background check and appearance exemptions for wholesale dealers, and to allow for the selling, serving and dispensing of alcohol within the public right-of-way adjacent to a business holding a valid liquor license with the approval of an encroachment permit. In addition, staff has proposed changes to remove specific fee amounts from the ordinance in favor of adopting them separately by resolution, to clarify existing provisions, to add provisions for license application and enforcement, and to correct various typographical and grammatical errors. The table below identifies the sections of the ordinance proposed for modification, and provides an explanation for each modification.

	Proposed Ordinance Amendment	Reason for Proposed Amendment
1.	Modify existing definitions in Section 4.13.010, Definitions, for "Beer", "Business License Division", "Director" and "Wine"	<p>a. The modification of the "Beer", and "Wine" definitions is for consistency with Nevada Revised Statutes (NRS).</p> <p>b. The modification of the "Business License Division" and "Director" definitions changes the responsible department from Public Works to Community Development. Community Development is already the responsible department, but separated from Public Works in 2013.</p>
2.	Add new definitions to Section 4.13.010, Definitions, for "Brew Pub", "Brewery", "Craft Distillery", "Intoxicating Liquor", "License", "On Premise" and "Wholesale Dealer"	<p>a. The addition of "Brew Pub", "Brewery" and "Craft Distillery" are proposed for consistency with NRS and, in the case of "Brew Pub" for consistency within Carson City Municipal Code (CCMC).</p> <p>b. The addition of "Intoxicating Liquor", "License" and "On Premise" is to provide definitions for terms already used in the</p>

	Proposed Ordinance Amendment	Reason for Proposed Amendment
		<p>Liquor Ordinance.</p> <p>c. The addition of “Wholesale Dealer” defines those liquor dealers that are proposed to be exempt from background investigations and appearance requirements under certain circumstances elsewhere in the amended ordinance.</p>
3.	<p>Modify Section 4.13.030, Powers and Duties of the Board, to allow the Board to appoint a Hearings Officer to grant or deny liquor license applications on behalf of the Board, and to consider appeals of Hearings Officer decisions</p>	<p>Because most liquor license approvals are routine at the Board level, staff is proposing an administrative process through the appointment of a Hearings Officer to streamline application approvals/denials, and to allow for appeals of Hearings Officer decisions to the Board.</p>
4.	<p>Add a new Section 4.13.035, Powers and Duties of the Hearings Officer</p>	<p>This new section proposes the following:</p> <p>a. Defines the powers and duties of a Hearings Officer to approve or deny liquor licenses.</p> <p>b. Allows the Hearings Officer to forward an application to the Board for consideration in the event of a conflict of interest, when the Sheriff recommends denial of a license based on an applicant’s background investigation, or when a hearing before a quorum of the Board would be more appropriate.</p>
5.	<p>Modify Section 4.13.040, License Required</p>	<p>Additional language is proposed under this section to state that failure to obtain a license or to serve or sell liquor without a license is a misdemeanor. These acts are already a misdemeanor per the current ordinance, but it is not clearly stated.</p>
6.	<p>Add a new Section 4.13.045, Fees</p>	<p>This new section sets forth general provisions for fees associated with the administering of the ordinance, and allows fees to be contained in a separate fee schedule that would be set and amended by the Board. This replaces the specific fee amounts currently identified in the ordinance. A separate draft resolution with fee schedule has been provided for information and feedback as a part of this item (attached), and will be presented for adoption in conjunction with the second reading of the amended ordinance.</p>

7.	Modify Section 4.16.050, Classes of Licenses – Separate Entity, to add licenses for brew pubs, breweries and craft distilleries	The modification of this section is to add license types consistent with the additional definitions proposed in Section 4.13.010, Definitions.
8.	Modify Section 4.13.060, Application for License, to allow applications to be made to the Hearings Officer, to require an affidavit from the liquor manager regarding server training, and to eliminate the provision that a hearing on a license must be given within 45 days of the application	<p>The modification of this section includes the following:</p> <p>a. Allows liquor license applications to be made to the Hearings Officer through the Business License Division, rather than to the Board through the Business License Division. This is consistent with the proposed change in approval or denial of liquor licenses from the Board to the Hearings Officer under Sections 4.13.030 and 4.13.035.</p> <p>b. Sets forth a specific mechanism by which the liquor manager will assure that all employees serving or selling alcohol will complete a server training course. The current ordinance does not contain a specific requirement.</p> <p>c. Eliminates a provision stating that a hearing must be given within 45 days of the date of application. This is inconsistent with a provision elsewhere in the ordinance stating that a decision must be given within 30 days of the completion of the background investigation.</p>
9.	Modify Section 4.13.070, Investigation– Fees, to allow for an exemption from background investigations for wholesale dealers and to eliminate specific fee amounts	<p>The modification of this section includes the following:</p> <p>a. Allows wholesale dealers to be exempt from background investigations provided they submit proof of a valid liquor license in the county where their physical business is located if the proposed liquor manager is the same. Wholesale dealers doing business in the City don't necessarily have a physical location in the City, but are required to have a liquor license where their physical address is. This provision will eliminate duplication of background investigations for liquor managers that have already been subject to background investigations in their home county.</p> <p>b. Eliminates specific fee amounts in favor of adopting them in a separate fee schedule.</p>

10.	Modify Section 4.13.080, Investigation–Duties of Sheriff, to report investigation results to the Business License Division	This modification codifies current practice of the Sheriff forwarding background investigations to the Business License Division. The results are then included with a recommendation for approval or denial of a license from the Business License Division to the Hearings Officer.
11.	Modify Section 4.13.100, License–Procedure, to change all consideration for licenses from the Board to the Hearings Officer and to exempt Wholesale Dealers from the appearance requirement	Modification of this section includes the following: a. Changes the consideration of licenses from the Board to the Hearings Officer consistent with the modifications proposed elsewhere in the amended ordinance. b. Exempts wholesale dealers from appearing before the Hearings Officer provided they submit proof of a valid liquor license in the county where their physical business is located and if the proposed liquor manager is the same.
12.	Add a new Section 4.13.102, Appeals	Because it is proposed for applications to be approved or denied by a Hearings Officer elsewhere in the amended ordinance, this new section will set forth provisions for the appeal of Hearings Officer decisions to the Board in the event that the applicant or aggrieved party does not agree with the decision.
13.	Modify Section 4.13.105, License–Application Fees, to eliminate specific fee amounts	The modification proposed in this section is the elimination of specific fee amounts in favor of adopting them in a separate fee schedule.
14.	Modify Section 4.13.110, License–Fees, to eliminate specific fee amounts and to restate the current provisions more clearly	The modifications proposed in this section include the following: a. The elimination of specific fee amounts in favor of adopting them in a separate fee schedule. b. The restatement of existing provisions in a clearer manner. No substantive changes are proposed.
15.	Modify Section 4.13.115, Death of or Change to Person Listed on License, to restate the current provisions more clearly, to require that an updated application be submitted within 30 days and to state that	The modification of this section includes the following: a. Restates the existing provisions in a clearer, more understandable manner.

	<p>the Hearings Officer is required to approve new liquor managers</p>	<p>b. Requires that an updated application be submitted to the Business License Division within 30 days of a change in liquor manager. The current ordinance does not give a specific requirement for a new application, only that a change is to be reported. However, a new liquor manager is subject to a background investigation and other provisions that make an application necessary.</p> <p>c. States that the Hearings Officer is required to approve new liquor managers.</p>
<p>16.</p>	<p>Modify Section 4.13.120, License – Transferability, Use and Reactivation, to move existing reactivation provisions to this section, to restate more clearly current provisions to make changes to an existing license, to modify allowable locations where a licensee can sell, serve or dispense liquor associated with their license and to remove specific fee amounts</p>	<p>The modification of this section includes the following:</p> <p>a. Moves the existing reactivation provisions from the current separate Section 4.13.135, Reactivation of Prior Existing License, to this section, which staff believes is a more appropriate location. No substantive changes are proposed.</p> <p>b. Restates the current provisions under which changes can be made to an existing liquor license. No substantive changes are proposed.</p> <p>c. Adds language that allows a licensee to serve, sell or dispense liquor in an area occupying the public right-of-way adjacent to their business with an encroachment permit. This is in response to the newly widened sidewalks downtown and the desire of businesses to utilize the public right-of-way for outdoor dining space or similar.</p> <p>d. Eliminates specific fee amounts in favor of adopting them in a separate fee schedule.</p>
<p>17.</p>	<p>Modify Section 4.13.125, Issuance or Denial of License, to change the issuance or denial of a license from the Board to the Hearings Officer, to add an additional offense within the last five years which would make a person unsuitable for a liquor license and to allow for proof of a payment plan or similar arrangement if child support payments are in arrears</p>	<p>The modification of this section includes the following:</p> <p>a. Changes the issuance or denial of all licenses from the Board to the Hearings Officer or to the Board if an application is forwarded pursuant to new Section 4.13.035, Powers and Duties of the Hearings Officer proposed in the amended ordinance.</p> <p>b. Adds a gross misdemeanor or equivalent</p>

		<p>conviction in another state of battery, domestic battery or similar to the list of offenses within the last five years which would make a person unsuitable for a liquor license.</p> <p>c. Allows for the proof of an approved payment plan or similar arrangement for a person who is in arrears in child support payments.</p>
18.	<p>Modify Section 4.13.135, from Reactivation of Prior Existing License to Enforcement Authority, to move reactivation provisions to another section and to add provisions regarding enforcement</p>	<p>The modification of this section include the following:</p> <p>a. Remove Reactivation of Prior Existing License title and provisions and relocate said provisions to Section 4.13.120, License – Transferability, Use and Reactivation as proposed elsewhere in this amended ordinance.</p> <p>b. Add provisions outlining enforcement powers and duties not specifically stated in the ordinance currently.</p>
19.	<p>Modify Section 4.13.140, Grounds for Disciplinary Action, to provide a provision consistent with NRS that the Board has the power to recommend suspension or revocation of a license to the State Department of Taxation</p>	<p>This modification adds a provision pursuant to NRS 369.230 that the Board shall have the power to recommend to the State Department of Taxation the temporary suspension or permanent revocation of a license for any one of the acts or omissions listed in this section.</p>
20.	<p>Modify Section 4.13.150, Disciplinary Action Procedure and Penalties, to add that the Sheriff may recommend investigation of the conduct of a licensee or the Director may investigate the conduct of a licensee, to change that penalties may be imposed for criminal citations issued within any 12 month period, to reduce the fine for the third offense for criminal citations from \$1,500.00 to \$1,000.00, to add a provision consistent with NRS that the Board shall have the right to suspend or revoke summarily any license under certain circumstances and to change the reporting month from December to January for the annual activity report</p>	<p>The proposed modifications in this section include the following:</p> <p>a. Allows the Sheriff to recommend to the Board investigation of the conduct of any licensee to determine whether grounds for disciplinary action exist.</p> <p>b. Allows the Director, in addition to the Board, to investigate the conduct of any licensee to determine whether grounds for disciplinary action exist.</p> <p>c. Changes the timeframe in which criminal citations may be considered related to the sale of liquor from six months to 12 months. This change holds licensees accountable for a longer timeframe should they receive criminal citations for selling liquor.</p> <p>d. Reduces the fine for the third offense for criminal citations related to the sale of liquor</p>

		<p>from \$1,500.00 to \$1,000.00 to be consistent with CCMC Section 1.08.010, Violation–Penalty, which limits such a fine to \$1,000.00.</p> <p>e. Adds a provision pursuant to NRS 369.280 giving the Board the right to suspend or revoke summarily any license in cases appearing to be of an aggravated and flagrant violation of the law.</p> <p>f. Changes the reporting month for the annual activity report from December to January to allow the report to follow a calendar year reporting schedule.</p>
21.	<p>Modify Section 4.13.210, Possession of Open Liquor and Consumption of Liquor in Public Prohibited, to provide an exception when an encroachment permit is obtained to occupy the public right-of-way adjacent to the business</p>	<p>The modification proposed for this section adds language allowing the possession or consumption of liquor within the public right-of-way, provided that a business holding a liquor license for on premise sales and consumption obtains an encroachment permit for the area adjacent to said business. This is in response to the newly widened sidewalks downtown and the desire of businesses to utilize the public right-of-way for outdoor dining space or similar.</p>

If you have any questions, please contact Susan Pansky at 283-7076 or spansky@carson.org. Thank you.

Attachments:

- 1) Ordinance
- 2) Draft Resolution for Liquor License Fee Schedule

ORDINANCE NO. 2017-__

BILL NO. ____

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 4, LICENSES AND BUSINESS REGULATIONS, CHAPTER 13, LIQUOR BOARD AND LIQUOR LICENSE AND SALES, BY AMENDING SECTION 4.13.010, DEFINITIONS, TO MODIFY EXISTING DEFINITIONS FOR "BEER", "BUSINESS LICENSE DIVISION", "DIRECTOR" AND "WINE", AND TO ADD DEFINITIONS FOR "BREW PUB", "BREWERY", "CRAFT DISTILLERY", "INTOXICATING LIQUOR", "LICENSE", "ON PREMISE" AND "WHOLESALE DEALER"; AMENDING SECTION 4.13.030, POWERS AND DUTIES OF THE BOARD, TO ALLOW FOR THE APPOINTMENT OF A HEARINGS OFFICER TO GRANT OR DENY APPLICATIONS AND TO CONSIDER APPEALS OF HEARINGS OFFICER DECISIONS; ADDING SECTION 4.13.035, POWERS AND DUTIES OF THE HEARINGS OFFICER, TO SET FORTH DUTIES FOR THE HEARINGS OFFICER; AMENDING SECTION 4.13.040, LICENSE REQUIRED, TO STATE THAT FAILURE TO OBTAIN A LICENSE IS A MISDEMEANOR; ADDING SECTION 4.13.045, FEES, TO IDENTIFY THE RIGHT TO SET CERTAIN FEES AND ESTABLISH A FEE SCHEDULE; AMENDING SECTION 4.13.050, CLASSES OF LICENSES-SEPARATE ENTITY, TO ADD BREW PUB, BREWERY AND CRAFT DISTILLERY LIQUOR LICENSES; AMENDING SECTION 4.13.060, APPLICATION FOR LICENSE, TO CHANGE THE APPLICATION FOR A LICENSE FROM THE BOARD TO THE HEARINGS OFFICER AND TO REQUIRE A SWORN AFFIDAVIT BY THE LIQUOR MANAGER THAT ALL EMPLOYEES WILL COMPLETE SERVER TRAINING; AMENDING SECTION 4.13.070, INVESTIGATION-FEES, TO EXEMPT WHOLESALE DEALERS FROM THE BACKGROUND INVESTIGATION REQUIREMENT AND TO REMOVE SPECIFIC FEE AMOUNTS; AMENDING SECTION 4.13.080, INVESTIGATIONS-DUTIES OF SHERIFF, TO CHANGE THE REPORTING OF BACKGROUND INVESTIGATIONS FROM THE BOARD TO THE BUSINESS LICENSE DIVISION; AMENDING SECTION 4.13.100, LICENSE-PROCEDURE, TO CHANGE THE CONSIDERATION OF LICENSES FOR APPROVAL AND DENIAL FROM THE BOARD TO THE HEARINGS OFFICER AND TO EXEMPT WHOLESALE DEALERS FROM THE APPEARANCE REQUIREMENT; ADDING SECTION 4.13.102, APPEALS, TO SET FORTH PROVISIONS FOR THE APPEAL OF HEARINGS OFFICER DECISIONS TO THE BOARD; AMENDING SECTION 4.13.105, LICENSE-APPLICATION FEES, TO REMOVE SPECIFIC FEE AMOUNTS; AMENDING SECTION 4.13.110, LICENSE-FEES, TO REMOVE SPECIFIC FEE AMOUNTS, TO STATE THAT LICENSE FEES WILL BE PRORATED AND TO MODIFY PROVISIONS FOR PENALTIES RELATED TO NON-PAYMENT OF LICENSE FEES; AMENDING SECTION 4.13.115, DEATH OF OR CHANGE TO PERSON LISTED ON A LICENSE, TO REQUIRE THAT AN UPDATED APPLICATION BE FILED WHEN THE LIQUOR MANAGER CHANGES AND THAT A CHANGE IN LIQUOR MANAGER REQUIRES APPROVAL BY THE HEARINGS OFFICER; AMENDING SECTION 4.13.120, LICENSE-TRANSFERABILITY, USE AND REACTIVATION, TO ALLOW FOR CERTAIN CHANGES TO EXISTING LICENSES, TO ALLOW FOR THE SERVING, SALE AND DISPENSING OF ALCOHOL IN THE PUBLIC

RIGHT-OF-WAY WITH AN ENCROACHMENT PERMIT, TO ALLOW FOR REACTIVATION OF EXISTING LICENSES UNDER CERTAIN CIRCUMSTANCES AND TO REMOVE SPECIFIC FEE AMOUNTS; AMENDING SECTION 4.13.125, ISSUANCE OR DENIAL OF LICENSE, TO CHANGE THE GRANTING OR DENYING OF LICENSES FROM THE BOARD TO THE HEARINGS OFFICER, TO ADD AN ADDITIONAL OFFENSE WITHIN THE LAST FIVE YEARS WHICH WOULD MAKE A PERSON UNSUITABLE FOR A LIQUOR LICENSE AND TO ALLOW FOR PROOF OF AN APPROVED PAYMENT PLAN OR SIMILAR ARRANGEMENT WHEN A PERSON IS IN ARREARS IN CHILD SUPPORT PAYMENTS; CHANGING SECTION 4.13.135, REACTIVATION OF PRIOR EXISTING LICENSE TO SECTION 4.13.135, ENFORCEMENT AUTHORITY, AND TO OUTLINE VARIOUS ENFORCEMENT DUTIES; AMENDING SECTION 4.13.140, GROUND FOR DISCIPLINARY ACTION, TO ADD A PROVISION CONSISTENT WITH NRS THAT THE BOARD HAS THE POWER TO RECOMMEND TO THE STATE DEPARTMENT OF TAXATION SUSPENSION OR REVOCATION OF A LICENSE; AMENDING SECTION 4.13.150, DISCIPLINARY ACTION PROCEDURE AND PENALTIES, TO ALLOW THE SHERIFF TO RECOMMEND INVESTIGATION OF THE CONDUCT OF ANY LICENSEE, TO ALLOW THE DIRECTOR TO INVESTIGATE THE CONDUCT OF ANY LICENSEE, TO CHANGE THE TIMEFRAME IN WHICH A PENALTY MAY BE IMPOSED FOR CRIMINAL CITATIONS FROM SIX MONTHS TO 12 MONTHS, TO REDUCE THE FINE FOR THE THIRD OFFENSE FOR CRIMINAL CITATIONS RELATED TO THE SALE OF LIQUOR FROM \$1,500.00 TO \$1,000.00, TO ADD A PROVISION CONSISTENT WITH NRS THAT THE BOARD HAS THE RIGHT TO SUSPEND OR REVOKE SUMMARILY ANY LICENSE UNDER CERTAIN CIRCUMSTANCES AND TO CHANGE THE ANNUAL ACTIVITY REPORT DUE DATE FROM DECEMBER TO JANUARY; AMENDING SECTION 4.13.210, POSSESSION OF OPEN LIQUOR AND CONSUMPTION OF LIQUOR IN PUBLIC PROHIBITED, TO PROVIDE AN EXCEPTION WHEN AN ENCROACHMENT PERMIT IS OBTAINED TO OCCUPY THE PUBLIC RIGHT-OF-WAY ADJACENT TO THE BUSINESS; AND OTHER MATTERS PROPERLY RELATED THERETO.

THEREFORE, THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

Section I: Title 4, Chapter 4.13 of the Carson City Municipal Code is hereby amended as follows (added text is **underlined** and deleted text is ~~[stricken]~~):

4.13.010 - Definitions.

As used in this chapter, the following words shall have the meanings described in this section, unless the context clearly indicates otherwise:

1. "Beer" means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or similar product, or any combination thereof, in water[-], **as set forth in NRS 369.010.**
2. "Board" means the Carson City Liquor Board which is composed of the board of supervisors and the sheriff.

3. “Brew Pub” means:

a. An establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230; and

b. Complies with the definition of “brew pub” set forth under CCMC Title 18.

4. “Brewery” means an establishment which manufactures malt beverages but does not sell those malt beverages at retail, as set forth in NRS 369.180.

[3]5. "Business License Division" means the business license division of the Carson City [Public Works] **Community Development** Department.

6. “Craft Distillery” means an establishment which:

a. Manufactures distilled spirits from agricultural raw materials through distillation; and

b. Is authorized to sell those distilled spirits pursuant to the provisions of NRS Chapter 597.

[4]7. "Dining [~~R~~]Room" means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation, which have suitable kitchen facilities connected therewith complying with all regulations of the departments of health of the city and state.

[5]8. "Director" means the director of the department of [~~Public Works~~] **Community Development**.

[6]9. "Hearings Officer" means an official appointed by the Carson City Liquor Board, who shall exercise such powers and duties as are described by this chapter.

10. “Intoxicating Liquor” means the four varieties of liquor: alcohol, spirits, wine and beer, and every liquor or solid, patented or not, containing one-half of one percent (0.50%) or more of alcohol by volume, and is intended for consumption by human beings as a beverage; and is synonymous with “liquor” as also defined in this chapter.

11. “License” means any license issued pursuant to this chapter.

[7]12. "Liquor" means whiskey, wine, beer, malt liquor, gin, cordials, ethyl alcohol or rum, and any other beverage or substance with an alcoholic content of one-half of one percent (0.50%) or more by volume which is used for beverage purposes.

[8]13. "Liquor [~~e~~]Caterer" means a person who dispenses, serves, or sells alcoholic beverages by the drink only for consumption on the premises where the alcoholic beverages are dispensed. The liquor caterer's services must be performed between diverse locations on a shifting and intermittent basis as opposed to a permanent location; and the location of the premises where such alcoholic beverages are dispensed is disclosed to the licensing authority three (3) working days prior to the occurrence of the same.

[9]14. "Liquor Manager" means the person who is responsible for the day to day operations of liquor sales at the licensed location and is responsible for enforcing the liquor license rules and regulations. A Liquor Manager is not required to be the on site manager of the licensed location.

[40]15. "Packaged [~~l~~]Liquor" means the sale of unopened liquor in its original container in a package by the licensee at the premises specified in the license for consumption off the licensee's premises.

[44]16. "Person" means any individual, firm, association, partnership, corporation, or other entity.

17. "On Premise" means an establishment with a liquor license for the consumption of liquor at the business location where the liquor license is held.

[42]18. "Owner" means the person, firm or corporation on file with the Business License Division who holds the liquor license.

[43]19. "Retail" means the sale of liquor by the package, bottle or drinks to consumers.

[44]20. "Tavern" means any bar, cocktail lounge, or club, with or without live or recorded entertainment, and with or without dancing.

[45]21. "Wine" means any alcoholic beverage **obtained by the fermentation of the natural contents of fruits or other agricultural products containing sugar, as set forth in NRS 369.140.** [~~other than beer, obtained by the fermentation of the natural contents of fruits or other agricultural products containing natural or added sugar, which contains not more than twenty-two percent (22%) of alcohol by volume.~~]

[46]22. "Wholesale [~~l~~]Liquor" means the sale and delivery of liquor, which must be packaged in original sealed or corked containers, to any licensee for the purposes of resale.

23. "Wholesale Dealer" means a person licensed to sell liquor as it is originally packaged to retail liquor stores or to another licensed wholesaler, but not to sell to the consumer or general public, as set forth in NRS 369.130.

4.13.020 - Meetings of [~~b~~]Board—Quorum—Voting—Compensation—Chairman—Clerk.

1. The [~~liquor~~] board shall meet as often as its business requires at scheduled times at the beginning, during, or immediately following a meeting of the board of supervisors.

2. Four or more members of the board shall constitute a quorum and each member shall have one vote. A majority vote of the members present shall be necessary to authorize the issuance of any license or to transact any other business.

3. In the event of a tie vote, the matter being voted upon shall not carry.

4. All members of the board shall serve without additional compensation.

5. The board shall elect a chairman from among its members.

6. The city clerk shall serve as the clerk of the board.

4.13.030 - Powers and ~~[d]~~**D**uties of the ~~[b]~~**B**oard.

1. The board shall regulate and control the sale or disposition of intoxicating liquors by:
 - a. **Appointing a hearings officer authorized to grant or deny applications for licenses and who may impose conditions, limitations or restrictions upon licenses pursuant to the provisions of this chapter;**
 - b. **Considering appeals of hearings officer decisions pursuant to Section 4.13.102 of this chapter;** ~~[Granting or denying applications for license and imposing conditions, limitations, and restrictions upon the license;]~~
 - ~~[b]~~**c.** Suspending or revoking any license when, in the opinion of a majority of the board after hearing, there exists sufficient reason therefor. In an emergency the board may immediately suspend or limit a license until a hearing can be conducted;
 - ~~[e]~~**d.** Prohibiting the employment or service of minors in the sale or disposition of liquor;
 - ~~[d]~~**e.** Prohibiting the sale or disposition of liquor in places where, in the judgment of the liquor board, such sale or disposition may tend to create or constitute a special law enforcement problem or a public nuisance;
 - ~~[e]~~**f.** Fixing fees and procedures for the collection of fees for licenses as well as investigation fees;
 - ~~[f]~~**g.** Fixing the hours of each day during which liquor may be sold or disposed of;
 - ~~[g]~~**h.** Prescribing the conditions under which liquor may be sold or disposed of.

4.13.035 – Powers and Duties of the Hearings Officer.

- 1. A hearings officer shall be appointed by formal action of the board;**
- 2. The hearings officer is entitled to no extra compensation for the hearings officer duties;**
- 3. The hearings officer shall have the power and duty to study, review, approve, disapprove or approve with conditions all liquor license applications;**
- 4. The hearings officer may elect to forward an application to the board for its consideration within the timeframe outlined in Section 4.13.100 (3) under the following circumstances:**
 - a. A conflict of interest is determined to exist; or**
 - b. The sheriff has recommended denial of the license based on the applicant's background investigation; or**
 - c. A hearing before a quorum of the board would be more appropriate.**

5. Where this chapter indicates the hearings officer process may be used, the decision of the hearings officer is final unless appealed to the board in accordance with Section 4.13.102 (Appeals).

4.13.040 - License [r]Required.

It shall be unlawful for any person knowingly to sell or to hold for sale or offer for sale to any person any liquor within Carson City without first procuring and paying for a license as provided for in this chapter. **Failure to obtain a license, or to serve or sell liquor without a license, as outlined in this section shall be considered a misdemeanor violation and subject to associated penalties and fines pursuant to Chapter 1.08 of this title.**

4.13.045 - Fees.

For the privilege of holding a liquor license in Carson City, the City shall have the right to set application fees, license fees, administrative fees, investigation fees and any other fees necessary to administer this Title. These fees shall be set and amended by approval of the board and will be contained in a fee schedule maintained by the Business License Division.

4.13.050 - Classes of [f]Licenses—Separate [e]Entity.

1. The following classes of licenses may be issued to qualified applicants:

- a. Tavern/bar liquor licenses;
- b. Dining room with beer and wine liquor licenses;
- c. Dining room with "liquor" liquor licenses;
- d. General wholesale liquor licenses;
- e. Packaged liquor licenses;
- f. Extra bar at a licensed location liquor license, (permanent wet bar);
- g. Liquor catering license;
- h. Combination package and "on premise" liquor license.

i. Brew pub liquor license;

j. Brewery liquor license;

k. Craft distillery liquor license.

2. Any license required by this chapter is a separate and distinct license from all other city licenses and liquor licenses and is in addition to any other license required for conducting or carrying on any other business in connection with or separate from the activities licensed by this chapter.

4.13.060 - Application for [H]License.

1. Application for any license provided in this chapter [shall] **must** be made to the [board] **hearings officer** by affidavit on the form provided by the Business License [d]Division.
2. Each application [shall] **must**:
 - a. Be filed with the Business License [d]Division;
 - b. Be accompanied by the nonrefundable investigation fee as provided in this chapter;
 - c. Be accompanied by all fees, except the annual license fee, as required by this chapter;
 - d. Include the name and address of the person or persons to whom the liquor license will be issued and the name of any additional natural person who will serve as the liquor manager. If the applicant is:
 - (1) A partnership, the application [shall] **must** include the names and addressees of all partners, and if one of the partners will not be serving as the liquor manager, the name and address of one or more natural persons who will serve as the liquor manager.
 - (2) A corporation, association, or other organization, the application [shall] **must** include the names and addresses of the chief executive officer, any other officer or employee who is responsible for directing the day to day sale of liquor in Carson City and one or more natural persons who will serve as the liquor manager and the principal place of business of the corporation;
 - e. Specify the class or classes of license sought;
 - f. Specify the location, by street and number, of the premises for which the license is sought, and the name of the owner(s), lessee, or assignee of the premises where the business is to be operated;
 - g. Be signed by all persons who are listed on the application for the liquor license. In the case of corporations, clubs or organizations with members, the application [shall] **must** be verified by the president or secretary and any natural person who is listed as a liquor manager; and
 - h. **Include a sworn affidavit signed by the person listed as the liquor manager which states** [Assure] that all employees serving and/or selling liquor will complete a server training course acceptable to the Sheriff's Office within one hundred twenty (120) days of obtaining a license.

~~[3. Any application required by or allowed by this chapter must be given a hearing within forty-five (45) days of the date the application is complete.]~~

4.13.070 - Investigation—Fees.

1. As a condition to receipt of a liquor license, each applicant for a license and each person added to an existing license shall submit to a background investigation to be conducted by the Sheriff. No investigation is required for a person who holds a current license and is seeking:
 - a. A transfer of a license to another location;
 - b. An additional liquor license for another location; or
 - c. An additional class license; if an investigation has been completed.
2. **No background investigation is required for wholesale dealers that conduct business, but do not have a physical business location, in Carson City, provided that the wholesale dealer submits proof of a valid liquor license in the county where its primary business is located, and the proposed liquor manager is the same as the liquor manager on the license submitted for proof from the county where its primary business is located.**
- [2]3. Each applicant for a liquor license shall pay an investigation fee to the Business License [d]Division [of \$500.00] at the time of filing the application or when the investigation is required. **If more than one individual must be investigated, the first individual will be subject to the full investigation fee, and each additional individual will be subject to a reduced fee.** [the investigation fee is \$500.00 for the first individual plus \$75.00 for each additional individual.] A change in liquor managers **for an existing liquor license will be subject to a reduced** [requires a \$75.00] investigation fee. Once an investigation has begun the fee [will be] **is** nonrefundable.

4.13.080 - Investigation—Duties of [s]Sheriff.

1. The [S]sheriff shall, where applicable, as a part of the investigation of an application for a liquor license:
 - a. Inspect, or cause to be inspected, the location of the proposed place of business;
 - b. Investigate the moral character of the person or persons applying for the license and managers of the proposed business for which a license is sought;
 - c. Report the results of the investigation to the [board] **Business License Division.**
2. The [S]sheriff may, as a part of the investigation:
 - a. Require the applicant or applicants to be fingerprinted and/or photographed;
 - b. Require the applicant or applicants to answer any and all questions deemed appropriate and necessary by the [S]sheriff or board, pertaining to such application or the fitness of any persons connected as owners, part owners, officers, managers or assistants of any establishment applying for a liquor license.

3. The investigation ~~[shall]~~ **must** be completed in the shortest time possible; however, the ~~[S]sheriff~~ is required to make a complete investigation and shall be given a reasonable amount of time to verify the information obtained.

4.13.090 - Health ~~[d]Department~~ ~~[d]Duties~~.

The Health ~~[d]Department~~, where applicable, ~~[shall]~~ **must** inspect the premises wherein the applicant or applicants seek to be licensed. After such inspection, the Health ~~[d]Department~~ shall indicate approval or disapproval of the premises on the application form. If the Health ~~[d]Department~~ disapproves the premises, the reasons and necessary corrections ~~[shall]~~ **must** be stated.

4.13.100 - License—~~[Board-p]~~**P**rocedure.

1. After completion of the investigation by the ~~[S]sheriff~~ and **where applicable**, the inspection by the Health ~~[d]Department~~, the Business License ~~[d]Division~~ shall cause the application to be placed upon the agenda for consideration by the ~~[liquor board]~~ **hearings officer**.
2. The applicant or applicants or their authorized representative ~~[shall]~~ **must** appear before the ~~[board]~~ **hearings officer** at the appointed time for approval or denial of the license. **Wholesale dealers are exempt from this requirement provided they submit proof of a valid liquor license in the county where their primary business is located, and the proposed liquor manager is the same as the liquor manager on the license submitted for proof from the county where its primary business is located.**
3. The ~~[liquor board may act upon the application or defer action until the next meeting of the liquor board but in no event longer than 30 days]~~ **hearings officer shall make a determination on the application within 30 days of the completion of the investigation.**
4. The annual license fee required pursuant to Section 4.13.110 of this chapter ~~[shall be]~~ **is** due upon the approval of the issuance of the license ~~[by the liquor board]~~.

4.13.102 - Appeals.

1. **Any applicant or any aggrieved party may file an appeal as specified in this section provided that the appellant has participated in the administrative process prior to filing the appeal.**
2. **A decision by the hearings officer may be appealed by the applicant or any aggrieved party to the board following the procedures in Subsection 6 of this section. In the case where an administrative citation is being appealed pursuant to Section 4.13.150 (8) and (10) for first and second offenses only, the citation shall be appealed to the hearings officer.**
3. **The board may affirm, modify or reverse the decision of the hearings officer. A decision by the board is final. Except as otherwise provided in NRS 369.200, any appeal of a board decision shall be made to a court of competent jurisdiction.**

4. The board shall render its decision of the appeal within 60 days of the submittal of a complete appeal application unless the appellant waives this time requirement.
5. All appeal hearings must be conducted at a meeting for which notice is given in accordance with the state open meeting law contained in NRS Chapter 241, where applicable.
6. Procedure for Filing an Appeal.
 - a. All appeals must be filed in writing with a letter of appeal to the director.
 - b. The letter of appeal must be submitted within 10 days of the date of the hearings officer's decision for which an appeal is requested.
 - c. The appeal letter must include the appellant's name, mailing address, daytime phone number, email address, and relationship to the applicant.
 - d. The letter must specify the application and/or decision for which the appeal is being requested. The letter must indicate which aspects of the decision are being appealed. No other aspect of the appealed decision will be heard.
 - e. The letter must provide the necessary facts or other information that support the appellant's contention that the hearings officer erred in his decision.
 - f. Issues not addressed in the hearing before the hearings officer for an application which is being appealed may not be raised as a basis for the appeal unless there is substantial new evidence which has become available accompanied by proof that the evidence was not available at the time of the hearing. If new information is submitted to the board, the application may be referred back to the hearings officer for further review and action.

4.13.105 – License ~~—~~[a]Application [f]Fees.

1. Each application for a new license, additional location for liquor service, or to add a person or persons to an existing license must be accompanied by [the following] **an appropriate** fee.
 - ~~[a. For a beer and wine type, \$500.00;]~~
 - ~~[b. For any other liquor type, \$1,000.00;]~~
 - ~~[c. To change the license from beer and wine type license to any other liquor type license, \$500.00;]~~
 - ~~[d. To change from a package liquor or an "on premise" license to a combination package and "on premise" liquor license, no application fee.]~~
2. Fifty percent of the license application fee is refundable if the application is denied or the applicant does not go into the business of selling, dispensing or serving liquor. A refund must be requested in writing and given to the Business License ~~[e]~~**D**ivision.

3. An application for a change in the active manager does not require a license application fee.

4.13.110 - License—Fees.

1. The license **and renewal** fees **for the liquor license classes pursuant to Section 4.13.050 shall be contained in the fee schedule maintained by the Business License Division. License and renewal fees** are non-refundable and are required to be paid to obtain or retain a license to sell liquor. ~~[shall be as follows:]~~

~~[\$800.00 per year for a tavern/bar liquor license;]~~

~~[\$600.00 per year for a dining room with beer/wine only liquor license;]~~

~~[\$800.00 per year for dining room with "liquor" liquor license;]~~

~~[\$800.00 per year for a general wholesale liquor license;]~~

~~[\$800.00 per year for packaged liquor license;]~~

~~[\$500.00 per year for each additional, permanent wet bar at a licensed location, liquor license;]~~

~~[\$400.00 per year for each liquor catering license which includes the use of one portable bar structure;]~~

~~[\$900.00 per year for a combination package and "on premise" liquor license.]~~

2. **License fees for new licenses will be prorated on a monthly basis, based on a fiscal calendar year from July to June.**

- ~~[2]~~**3.** All liquor license fees **not paid on or before July 1 of each year will be deemed delinquent and will be subject to a penalty as outlined in Subsection 5. For purposes of this subsection, if July 1 falls on a Saturday, Sunday or holiday, then the fees will be due the next business day.** ~~[become delinquent if not paid on or before July 1st, and a penalty of 50 percent of the payment due shall be added thereto. If July 1st falls on a Saturday or Sunday, then the fees shall be due on the next working day.]~~

~~[4.] License fees for new licenses shall be prorated on a monthly basis from July to June.]~~

- ~~[3]~~**4.** A license for which the liquor license fee has not been paid within 30 days of the due date shall be deemed expired and ~~[shall]~~ **will** no longer authorize the sale of alcohol. Notwithstanding any other provision of law, a license expired pursuant to this subsection ~~[shall]~~ **will** not be reinstated until the ~~[50 percent]~~ penalty fee **as outlined in Subsection 5** ~~[required pursuant to subsection 2.]~~ has been paid in addition to the regular license fee.

5. A penalty fee of 50 percent of the annual license fee shall be paid in addition to any current license fees due for both delinquent and expired licenses pursuant to Subsections 3 and 4.

4.13.115 - Death of or [~~c~~]Change to [~~p~~]Person [~~l~~]Listed on a [~~l~~]License.

An updated application must be filed with the Business License Division within 30 days after the occurrence of one of the following events:

- 1.** [~~In the event of d~~]Death of a person licensed pursuant to this chapter; [~~or, i~~]
- 2.** In the case of a corporate licensee, any change in the officers of a corporation listed on the application for a liquor license pursuant to this chapter[~~;~~]; or
- 3.** [~~a~~]Any change in the person responsible for directing the day to day sales of liquor in Carson City.

[~~shall be reported to the Business License division within 30 days after the death of the person or the change in officers or liquor managers.~~]

4. In the event of a change in liquor managers, approval by the hearings officer pursuant to Section 4.13.035 is required.

4.13.120 - License—Transferability, [~~and u~~]Use[~~;~~] **and Reactivation.**

1. Except as otherwise provided in [~~s~~]Subsection [~~two~~]2, a liquor license is not transferable or assignable between any two persons or entities (including partners), nor are any persons other than those listed on the license authorized to conduct the business.
2. If the business for which a liquor license has been issued is sold, the buyer may operate the business under the seller's liquor license for up to 90 days under the following conditions:
 - a. The buyer of the business must apply for a liquor license as provided by this chapter within seven days of the purchase of the business; and
 - b. A written agreement, executed by buyer and seller must be submitted to the Business License Division at the time of application submittal stating:
 - (1) That the seller and buyer agree that the buyer may operate the business under the seller's liquor license; **and**
 - (2) That the seller, as the holder of the license under which buyer may operate, agrees to remain liable for any violation of this Chapter.
3. [~~A liquor license may change liquor managers with approval of the board. A liquor license may be transferred to a location other than the location on the initial license application if an application to transfer the license is submitted to the Business License division and approved by the liquor board. An application for a transfer of a license must be accompanied by a fee of \$25.00 and is evaluated in the same way as the initial~~]

application. Once transferred, a liquor license is no longer valid at the former location. The transfer of a license, to a different location, does not require an investigation or the payment of investigation fees.] **The following changes may be made to an existing liquor license:**

- a. **Change in liquor managers with approval of the hearings officer pursuant to Section 4.13.035;**
 - b. **Transfer to a location other than the location on the initial license application if an application to transfer the license is submitted with an appropriate fee to the Business License Division and approved by the hearing officer. An application to transfer is not subject to investigation or payment of investigation fees. Once transferred, a liquor license is not longer valid at the former location.**
4. It is unlawful for any person to sell, serve or dispense liquor in any building or room not designated in the license **or encroachment permit for an area occupying the public right-of-way adjacent to the business pursuant to Section 4.13.210.**
 5. **If a liquor license holder voluntarily relinquishes a license, the license can be reissued within one year, without the assessment of an additional application fee, upon approval of the hearings officer. An appropriate fee will be assessed for investigative and administrative costs.**

4.13.125 - Issuance or [e]Denial of [f]License.

1. The [Carson City Liquor Board] **hearings officer or the board if an application is forwarded pursuant to Section 4.13.035 herein,** may grant or deny the application for a liquor license or place conditions on a license to ensure compliance with this chapter and other applicable laws and regulations. A denial must be based upon a finding that any applicant for any license, whether made by an individual, partnership, or corporation, is unsuitable for the issuance of a liquor license.
2. The following persons are unsuitable for the issuance of a liquor license:
 - a. A person who has been convicted within the past five years of:
 - (1)[-] A felony or other crime which under the laws of this state would amount to a felony.
 - (2)[-] Any crime of which fraud or intent to defraud was an element whether committed in this state or elsewhere.
 - (3)[-] Larceny in any degree.
 - (4)[-] Buying or receiving stolen property.
 - (5)[-] Unlawful entry of a building.

~~(6)~~[-] A gross misdemeanor, or equivalent conviction in another state, or unlawful possession, use, or distribution of controlled substances or dangerous drugs.

~~(7)~~[-] Illegal use of a dangerous weapon.

~~(8)~~[-] Operating a motor vehicle while under the influence of liquor and/or controlled substances or dangerous drugs.

~~(9)~~[-] Contributing to the delinquency of a minor.

(10) A gross misdemeanor or equivalent conviction in another state, of battery, domestic battery or similar offense.

- b. A person under the age of 21 years.
 - c. A person who is in arrears in child support payments[-] **unless proof of an approved payment plan or similar arrangement is produced and approved to the satisfaction of the hearings officer.**
 - d. A person whom the ~~[Carson City Liquor Board]~~ **hearings officer** determines is not a suitable person to receive a liquor license under the provisions of this Chapter, having due consideration for the proper protection of public health, safety, morals, good order and general welfare of the inhabitants of the City.
 - e. Except any elected Carson City officer or any member of the Carson City Board of Supervisors, a Carson City employee who oversees or enforces the rules and regulations of liquor licenses shall not have any involvement with, interest in, or management of any establishment that possesses a liquor license.
3. If an application for a liquor license is denied, the applicant thereof shall be notified in writing of the reason or reasons therefore.

4.13.130 - Right of ~~[i]~~ inspection.

All officials involved in the license process and deputy sheriffs of Carson City shall have access to every part and portion of the establishment for which a license is issued under the provisions of this chapter at any time when such establishment is open for the transaction of business and at all other reasonable times.

4.13.135 - ~~[Reactivation of prior existing license]~~ **Enforcement Authority.**

~~[If a liquor license holder voluntarily relinquishes a license, the license can be reissued within one year, without the assessment of the original application fee, upon approval of the board. A fee of \$100.00 will be assessed for investigative and administrative costs.]~~

It is the duty of the director, his officers, and all officials charged with the issuance of licenses, and/or those with police powers, to enforce the provisions herein. Such enforcement power includes, but is not limited to:

1. Issue citations;

- 2. Serve notices of correction;**
- 3. Issue orders of suspension or limitation;**
- 4. Prohibit unlawful business activities;**
- 5. Prevent activities in contravention of the licensing ordinances;**
- 6. Require findings of suitability;**
- 7. All other duties relating to licensing enforcement as provided herein.**

4.13.140 - Grounds for [d]Disciplinary [a]Action.

Any of the following conditions or occurrences are grounds for disciplinary action against a licensee for any of the following violations done either personally or through an agent, servant or employee:

1. Failure of the licensee to promptly pay a fee required or fine issued pursuant to this chapter;
2. Any act or failure to act by the licensee or its agents or employees in connection with the operation of the liquor business which would be a violation of a state or federal criminal statute or a Carson City criminal ordinance;
3. Any violation of the terms or conditions of a license;
4. Any misrepresentation made in an application for a liquor license;
5. Employment of any person under the age of 21 years in the business of selling or otherwise disposing of liquor, except when such person is 17 years old or older selling or disposing of packaged liquor only and working under direct supervision of a responsible person who is 21 years or older and is physically present on the premises;
6. Any act or failure to act by the licensee or its agents or employees in connection with the operation of the liquor business which creates or tends to create or constitute a public nuisance, or which fosters the maintenance of a disorderly house or place;
7. Refusal or neglect to comply with any provisions of this chapter;
8. Selling or giving away liquor to any person under the age of 21 years;
9. Any act or failure to act by the licensee which the board determines is detrimental to the public health, safety and welfare.

↳ The board shall have the power to recommend to the State Department of Taxation the temporary suspension or permanent revocation of a license for any one of the above acts or omissions, pursuant to NRS 369.230.

4.13.150 - Disciplinary [a]A**ction** [p]P**rocedure** and [p]P**enalties**.

1. The [~~liquor~~] board may[~~;~~] on its own motion, **upon recommendation of the sheriff, or the director** upon the sworn complaint in writing of any person, investigate the conduct of any licensee under this chapter to determine whether grounds for disciplinary action of a licensee exist. The board, **sheriff, or the director** may request the assistance of the licensee in such an investigation.
2. After an investigation, if it appears that a ground for disciplinary action exists, the liquor board shall issue and cause to be served on the licensee an order to show cause why disciplinary action should not be taken. Said order [~~shall~~] **must** contain:
 - a. A statement directing the licensee or licensee's representative to appear before the [~~liquor~~] board at a time and place set out therein which [~~shall~~] **must** be not less than ten days from the date of service of said order to show cause on the licensee;
 - b. A brief statement of the grounds for disciplinary action;
 - c. A statement that the licensee shall have an opportunity to be heard, present witnesses and confront any witnesses against him.
3. Service on the licensee shall be made by personally delivering a copy of the order to show cause to one of the persons whose name is on the license or by mailing a copy of the order by registered mail with return receipt to the place of business of the licensee, which is specified in the license.
4. At the hearing on the order to show cause, the licensee and the complainant, if there is one, may be represented by attorneys, present testimony, and cross-examine witnesses. If the hearing is pursuant to a complaint, the complainant must also be present.
5. Within 30 days after the hearing, the [~~liquor~~] board must render its decision as to disciplinary action and give notice thereof to the licensee. A majority of those members present at the hearing must agree in order to direct a disciplinary action.
6. Except for a license expired pursuant to 4.13.110, any person who has had a license revoked may reapply for a license after six months after the revocation order, but a new license may only be issued by an unanimous decision of all members of the board.
7. Disciplinary action is the procedure taken by the [~~B~~]board to conduct hearings regarding whether a licensee is in violation of applicable law, and the action which may be imposed by the [~~B~~]board pursuant to the hearings, which action consists of imposing the penalties set forth in [~~p~~]P**aragraph** 8 of this section.
8. Penalties that may be imposed upon a licensee by the [~~B~~]board for criminal citations issued within any [~~six~~] **12** month period that are related to the sale of liquor at the licensed premises:
 - a. First offense, if the person violating the criminal statute is issued a citation by the [~~S~~]sheriff[~~'s Department~~], the [~~S~~]sheriff[~~'s Department~~] shall notify the Business License Division of the name of the person to whom a citation was issued and the

location, date and time of the offense. The holder of the liquor license for the location at which the criminal citation was issued will be notified within three business days by registered mail, sent by the Business License Division, or personal service noting the name of the person to whom a citation was issued and the location, date and time of the occurrence. The holder of the liquor license will be issued an administrative citation in the amount of \$100.00 and ~~[the Carson City Sheriff's Department]~~ alcohol server training will be required within three months of the issuance of the citation for all employees selling, dispensing, or serving liquor that have not attended the training or equivalent training within the last year. A list of all employees selling, dispensing, or serving liquor that have attended alcohol server training must be submitted to the Business License Division within 30 days of completion of the training.

- b. Second offense, if the person violating the criminal statute is issued a citation by the ~~[S]heriff[’s Department]~~, the ~~[S]heriff[’s Department]~~ shall notify the Business License Division of the name of the person to whom a citation was issued and the location, date and time of the offense. The holder of the liquor license will be notified within three business days by registered mail, sent by the Business License Division, or personal service noting the name of the person to whom a citation was issued and the location, date and time of the occurrence. The holder of the liquor license for the location at which the criminal citation was issued will be issued an administrative citation in the amount of \$500.00 and alcohol server training will be required within three months of the issuance of the citation for all employees selling, dispensing, or serving liquor that have not attended the training or equivalent training within the last year. A list of all employees selling, dispensing, or serving liquor that have attended alcohol server training must be submitted to the Business License Division within 30 days of completion of the training.
- c. Third offense, if the person violating the criminal statute is issued a citation by the ~~[S]heriff[’s Department]~~, the ~~[S]heriff[’s Department]~~ shall notify the Business License Division of the name of the person to whom a citation was issued and the location, date and time of the offense. The holder of the liquor license will be notified within three business days by registered mail, sent by the Business License Division, or personal service noting the name of the person to whom a citation was issued and the location, date and time of the occurrence. The holder of the liquor license shall also be notified within three business days by registered mail or personal service that they must attend a hearing before the ~~[H]earings [O]fficer~~. The ~~[H]earings [O]fficer~~ may issue a fine of \$1,~~5~~000.00 for a third offense to the holder of the liquor license and also may suspend, revoke or place conditions upon the liquor license.
- d. Emergency suspension, if the person violating the criminal statute has been issued four or more criminal citations within any ~~[six-] 12~~ month period related to the sale of liquor at the licensed premises, the ~~[S]heriff~~, his designee, or the ~~[B]oard~~ may suspend the liquor license of the license holder until the next meeting of the ~~[Carson City Liquor B]oard~~ pursuant to the provisions of Section 4.13.160.
- e. The board shall have the right to suspend or revoke summarily any license in cases appearing to it to be of an aggravated and flagrant violation of law, pursuant to NRS 369.280.**

9. The holder of a liquor license upon whom a fine or other discipline has been imposed pursuant to ~~[s]Subsection 8[-]~~ may file an appeal pursuant to ~~[s]Subsections 10[-] or 11[-]~~ or shall pay the fine within 30 days of the date the fine is imposed. If the holder of the liquor license fails to file an appeal pursuant to ~~[s]Subsections 10[-] or 11[-]~~ and fails to pay the fine within 30 days of the date the fine is imposed, the holder of the liquor license shall be notified within three business days by registered mail or personal service that they must attend a hearing before the ~~[Carson City Liquor B]board~~ for a show cause hearing as to why the liquor license should not be revoked pursuant to CCMC 4.13.140 for failure to pay a fine issued pursuant to this chapter.

10. A holder of a liquor license upon whom a fine has been imposed pursuant to ~~[p]Paragraph a. or b. of [s]Subsection 8[-]~~ may file, in writing, not more than 1~~5~~0 days after the fine has been imposed, a request for an appeal with the Business License Division **pursuant to Section 4.13.102**. If the Business License Division receives an appeal pursuant to this subsection, the Business License Division shall schedule a show cause hearing for the matter before the ~~[H]hearings [O]officer~~. The holder of the liquor license shall be notified by registered mail or personal service by the Business License Division that they must attend the scheduled hearing before the ~~[H]hearings [O]officer~~. The ~~[H]hearings [O]officer~~ may overturn the issuance of an administrative citation if the ~~[H]hearings [O]officer~~ determines that the administrative citation was not issued to the proper holder of the liquor license for the establishment where the criminal violation occurred or that the holder of the liquor license met the duty required pursuant to CCMC 4.13.170 to provide continuing training to the employees of the holder of the liquor license and the criminal violation occurred nonetheless. If the ~~[Carson City H]hearings [O]officer~~ sustains the imposing of the fine, the holder of the liquor license shall pay the fine within 30 days of the date the ~~[Carson City H]hearings [O]officer~~ sustains the imposition of the fine. If the holder of the liquor license fails to pay the fine within 30 days of the date the fine is sustained, the holder of the liquor license shall be notified within three business days by registered mail or personal service that they must attend a hearing before the ~~[Carson City Liquor B]board~~ for a show cause hearing as to why the liquor license should not be revoked pursuant to ~~[CCMC] Section~~ **Section** 4.13.140 for failure to pay a fine issued pursuant to this chapter.

11. A holder of a liquor license upon whom a fine or other discipline has been imposed pursuant to ~~[p]Paragraph c. of [s]Subsection 8[-]~~ may file, not more than 1~~5~~0 days after the fine or other discipline has been imposed, a request for an appeal with the Business License Division **pursuant to Section 4.13.102**. If the Business License Division receives an appeal pursuant to this paragraph, the Business License Division shall schedule a show cause hearing for the matter before the ~~[Carson City Liquor B]board~~. The holder of the liquor license shall be notified by registered mail or personal service by the Business License Division that they must attend the scheduled meeting before the ~~[Carson City Liquor B]board~~. The ~~[Carson City Liquor B]board~~ may overturn or modify the fine or other disciplinary action imposed by the ~~[H]hearings [O]officer~~ if the ~~[Carson City Liquor B]board~~ determines that the ~~[H]hearings [O]officer~~ improperly determined that the administrative citation was issued to the proper holder of the liquor license for the establishment where the criminal violation occurred or that the holder of the liquor license did not meet the duty required pursuant to ~~[CCMC] Section~~ **Section** 4.13.170 to provide continuing training to the employees of the holder of the liquor license and the criminal violation occurred nonetheless or that the fine or other disciplinary action imposed by the

[H]hearings [O]fficer was arbitrary or capricious. If the [~~Carson City Liquor B~~]board sustains the imposing of the fine or other discipline, the holder of the liquor license shall pay any fine imposed within 30 days of the date the [~~Carson City Liquor B~~]board sustains the imposition of the fine. If the holder of the liquor license fails to pay the fine within 30 days of the date the fine is sustained, the holder of the liquor license shall be notified within three business days by registered mail or personal service that they must attend a hearing before the [~~Carson City Liquor B~~]board for a show cause hearing as to why the liquor license should not be revoked pursuant to [CCMC] **Section** 4.13.140 for failure to pay a fine issued pursuant to this chapter.

12. The [H]hearings [O]fficer shall hold public hearings at such times as are necessary to carry out the duties of the [H]hearings [O]fficer set forth pursuant to the provisions of this **section**[chapter]. The [H]hearings [O]fficer shall be charged with performing all functions necessary and incidental to making the final determination, including, addressing appeals relating to first and second offense citations and conducting hearings related to third offense citations, hearing evidence, and issuing any other necessary orders pursuant to the powers given to the [H]hearings [O]fficer. The [H]hearings [O]fficer shall conduct the hearing fairly, evaluate evidence and issue binding decisions.
13. The [H]hearings [O]fficer shall prepare and present to the [~~Carson City Liquor B~~]board, with the assistance of the Business License Division, an annual activity report in [~~December~~] **January** of every year, which includes the disciplinary actions and penalties resulting from the [H]hearings [O]fficer's decisions and the Administrative Citation process.

4.13.160 - Emergency [s]Summary [s]Suspension.

1. Notwithstanding any of the provisions of this chapter, the [S]heriff, his designee, or the [B]board may without prior notice suspend a license if:
 - a. Four or more criminal citations are issued within any [~~six~~]**12** month period related to the sale of liquor at the licensed premises; or
 - b. The [S]heriff, his designee, or the [B]board can determine that the continued operation of the licensed premises constitutes a clear and immediate threat to the health, safety and welfare of the residents of Carson City.
2. When a suspension occurs pursuant to [s]Subsection 1 of this section, the suspension shall remain in effect until the next meeting of the [~~Liquor B~~]board, subject to the requirements of Chapter 241 of the Nevada Revised Statutes. If the show cause hearing cannot be heard by the [B]board within 10 days of suspension, the licensee can file a written request with the Carson City Clerk requesting a special meeting of the [B]board for the show cause hearing.
3. If the [S]heriff[~~'s Department~~] issues a suspension pursuant to [s]Subsection 1, neither himself nor his designee may participate in any vote taken at the subsequent show cause hearing.

4. If a license is summarily suspended, the [~~S~~]sheriff[~~'s Department~~] shall send a written order of suspension, certified mail return receipt requested, within three business days of the suspension to the licensee at the mailing address listed on the liquor license or shall deliver the written order of suspension by personal service. The order of suspension must set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating the action. The order must also be posted in a conspicuous place at the licensed premises within one business day of issuance.

4.13.170 - Qualifications of [~~e~~]Employees.

1. Any employee of a holder of a liquor license who serves or dispenses alcohol shall complete alcohol server training within 30 days of employment.
2. A holder of a liquor license shall establish a continuing program of training for employees of the holder who serve or dispense alcohol in compliance with all applicable laws related to the sale of alcohol, including, but not limited to, the prohibition on the sale of alcohol to persons under the age of 21 years.

4.13.180 - Minors—Possession [~~p~~]Prohibited.

It [~~shall be~~] is unlawful for any minor to have in his or her possession within Carson City any liquor of any type or kind.

4.13.190 - Unlawful to [~~s~~]Serve [~~m~~]Minors.

1. It [~~shall be~~] is unlawful for any licensee or his agent or employee to sell, serve, give away, or otherwise provide liquor to any person under the age of 21 years or to allow or permit any person under the age of 21 years to possess or consume liquor in or upon the licensed premises.
2. Any person who knowingly and willfully violates the provisions of this section shall be guilty of a misdemeanor and shall be punished by imprisonment in the city jail for not more than six months, or by a fine of not more than, \$1,000.00 or by both such fine and imprisonment.
3. In any criminal prosecution or in any proceeding for disciplinary action against a liquor licensee based upon violation of this section, proof that the defendant licensee, or his agent or employee, demanded and was shown, immediately prior to providing liquor to a person under the age of 21 years, bona fide documentary evidence of age and identity of the person, issued by a federal, state, county or municipal government, or subdivision or agency thereof, containing the name, birth date, and photograph of the person, is a defense to the prosecution or proceeding for the suspension or revocation of a liquor license.

4.13.200 - Hours of [~~e~~]Operation for [~~l~~]Licensees.

Unless a specific condition is placed on a liquor license by the board, liquor may be sold or disposed of at any hour of the day.

4.13.210 - Possession of [o]Open [l]Liquor and [c]Consumption of [l]Liquor in [p]Public [p]Prohibited.

It shall be unlawful for any individual to have upon his/her person an opened can, bottle, or other container of liquor, or to consume liquor, upon any public street or alley or in any public place in Carson City, except where allowed by a special event liquor permit[-] **or by an encroachment permit for an area occupying the public right-of-way adjacent to a business that holds a liquor license for on premise sales and consumption.**

Section II: No other provisions of Title 4, Licenses and Business Regulations, Chapter 13, Liquor Board and Liquor Licensing and Sales, of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____, 2017.

PROPOSED BY Supervisor _____

PASSED _____, 2017.

VOTE:

AYES:

NAYS:

ABSENT:

ROBERT L. CROWELL, Mayor

ATTEST:

SUSAN MERRIWETHER, Clerk-Recorder

RESOLUTION NO. 2017-R-_____

A RESOLUTION ADOPTING A FEE SCHEDULE INCLUDING VARIOUS FEES FOR LIQUOR LICENSES IN CARSON CITY, NEVADA.

WHEREAS, the Board of Supervisors finds it appropriate to remove the liquor license fees from the Carson City Municipal Code in favor of adopting fees for liquor licenses through Resolution henceforth; and

WHEREAS, no modification to the fees for background investigations per Carson City Municipal Code, Section 4.13.070 (Investigation – Fees) is proposed at this time; and

WHEREAS, no modification to the fees for liquor license applications per Carson City Municipal Code, Section 4.13.105 (Application Fees) is proposed at this time; and

WHEREAS, no modification to the initial, annual or penalty fees for existing liquor license classes per Carson City Municipal Code, Section 4.13.110 (License – Fees) is proposed at this time; and

WHEREAS, no modification to the fee for the reissuance of a liquor license under certain circumstances per Carson City Municipal Code, Section 4.13.120 (License – Transferability, Use and Reactivation) is proposed at this time; and

WHEREAS, new fees are proposed for liquor licenses associated with the newly adopted classes of brew pub, brewery and craft distillery in Carson City Municipal Code, Section 4.13.010 (Definitions) and Section 4.13.050 (Classes of Licenses – Separate Entity); and

WHEREAS, prior to the amendment of the Carson City Municipal Code, Section 4.13.010 (Definitions) and Section 4.13.050 (Classes of Licenses – Separate Entity) to add the definitions and license classes for brew pub, brewery and craft distillery, licenses for those classes would still have been issued liquor licenses under existing, less specific liquor license categories; and

WHEREAS, the proposed fees for brew pub, brewery and craft distillery liquor licenses are consistent with the fee amounts for existing liquor license classes of a similar nature, leading staff and the District Attorney's office to determine that a Business Impact Statement per

NRS Chapter 237 is not warranted at this time.

NOW, THEREFORE, the Board of Supervisors hereby resolves that the fee schedule attached as Exhibit "A" is hereby adopted as the Liquor License Fee Schedule, with an effective date of February 16, 2017.

ADOPTED this _____ day of _____, 2017.

VOTE: AYES: _____

NAYS: _____
ABSENT: _____

ROBERT L. CROWELL, Mayor

ATTEST:

Susan Merriwether, Clerk-Recorder

EXHIBIT "A"

LIQUOR LICENSE FEE SCHEDULE

Investigation Fees (CCMC 4.13.070)*

Description	Fee Amount
Initial Individual for new License	\$500.00
Each Additional Individual for new License	\$75.00
Change in Liquor Manager on existing License	\$75.00

*Fees are non-refundable once the investigation has begun.

Application Fees (CCMC 4.13.105)**

Description	Fee Amount
Beer or Wine License	\$500.00
Any other Liquor License	\$1,000.00
Change from Beer or Wine License to Liquor License	\$500.00

**50 percent of the license application fee is refundable if the application is denied or the applicant does not go into the business of selling, dispensing or serving liquor. Refund must be requested in writing.

License and Renewal Fees (CCMC 4.13.110)***

License Class	Fee Amount
Tavern/Bar	\$800.00/year
Dining Room or Brew Pub with Beer/Wine Only	\$600.00/year
Dining Room or Brew Pub with Liquor	\$800.00/year
General Wholesale	\$800.00/year
Brewery	\$800.00/year
Craft Distillery	\$800.00/year
Packaged Liquor	\$800.00/year
Each additional permanent wet-bar at a licensed location	\$500.00/year
Liquor Catering with one portable bar structure	\$400.00/year
Combination Package and On-Premise	\$900.00/year

***License fees for new licenses will be prorated on a monthly basis, based on a fiscal calendar year from July to June.

Administrative Fees (CCMC 4.13.120)

Description	Fee Amount
Transfer of existing Liquor License to a new location	\$25.00
Reissuance of a voluntarily relinquished License	\$100.00