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BOLD TEXT: NEW LANGUAGE

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Summary: An ordinance amending the Liquor and Gaming License Ordinance to add definitions and create requirements of taverns or tavern-restaurants operating slot machines through a restricted or limited gaming license, together with other matters properly related thereto.

BILL NO. _____

ORDINANCE NO. _____

An ordinance amending Chapter 30 of the Washoe County Code, Intoxicating Liquor and Gaming Licenses and Regulations, Section 30.010 - Definitions, to amend definitions for taverns, tavern-restaurants, and associated gaming devices, and to add a definition for a grandfathered tavern and grandfathered tavern-restaurant; Section 30.355 - Operation of a Tavern or Tavern-Restaurant with Restricted or Limited Gaming, to add a requirement for the type and number of gaming devices allowed for a tavern or tavern-restaurant with restricted or limited gaming; Section 30.360 - License application, to add a requirement for submittal of a diagram and written declaration with an application for license or renewal of a restricted or limited gaming license; Section 30.400 - Renewal; notice of due date; substantial changes, to add a provision for non-compliance with Section 30.355; and Section 30.419 - Suspension and revocation of gaming licenses, to include non-renewal of a license for good cause, and to allow enforcement of gaming licenses in association with misrepresentation on gaming license applications; and other matters necessarily connected therewith and pertaining thereto.

WHEREAS:

- A. The Washoe County Liquor and Gaming Board desires to amend the Washoe County Code at Chapter 30, Liquor and Gaming

License Ordinance, to incorporate new definitions and create requirements of taverns or tavern-restaurants operating slot machines through a restricted or limited gaming license.

- B. This Board did initiate the amendments contained in this ordinance on April 10, 2018 following the provisions of Washoe County Code Sections 2.030 and 2.040; and,
- C. The amendments and this ordinance were drafted in concert with the District Attorney; and,
- D. Following a first reading and publication as required by NRS 244.100(1), and after a duly noticed public hearing, this Board desires to adopt this Ordinance; and,
- E. This Board has determined that there are no new fees nor any increase in fees as part of this ordinance; therefore it is not a "rule" as defined in NRS 237.060 requiring a business impact statement.

THE LIQUOR AND GAMING BOARD OF WASHOE COUNTY DOES ORDAIN:

SECTION 1. Section 30.100 of the Washoe County Code is hereby amended to read as follows:

30.010 Definitions. As used in the intoxicating liquor provisions of this chapter, inclusive, unless the context otherwise requires:

"Alcohol" means any product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, and synthetic ethyl alcohol.

"Alcoholic beverage" means:

(a) Beer, ale, porter, stout and other similar fermented beverages, including sake and similar products, of any name or description containing one-half of one percent or more alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

(b) Any beverage obtained by the fermentation of the natural content of fruits or other agricultural products containing sugar, of not less than one-half of one percent of alcohol by volume.

(c) Any distilled spirits commonly referred to as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever process produced.

"Annual gross liquor receipts" means the sum of the gross liquor receipts for the applicant's most recent fiscal year prior to the date for which the application is made.

"Tavern-restaurant" means a restaurant or full service eating and drinking establishment that operates as both a tavern and a restaurant or full service eating and drinking establishment. Minors may be allowed in the restaurant provided there is separation between the tavern and/or lounge area and the restaurant area by a structural barrier sufficient to exclude minors from the tavern and/or lounge area, and provided that no alcohol or liquor sales, consumption, or distribution occur in an area not licensed for alcohol sales or under the control of the licensee. Alcoholic beverages may be served to all patrons aged twenty-one and older throughout the premises, except that any person twenty-one and older accompanying a minor in the restaurant portion of the business may be served alcohol only in conjunction with meals at tables or booths. Except as otherwise provided in this Section, a tavern-restaurant that holds a restricted or limited gaming license as an ancillary or accessory activity to a tavern-restaurant business or full service eating and drinking establishment is not eligible to apply for, hold or renew a package beer license, a package liquor license or other liquor license that allows the holder to sell alcoholic beverages in packages to the public for off-site consumption or for consumption outside the tavern or tavern-restaurant. A tavern-restaurant that holds a state "supplier's license" as defined in NRS 369.111 or operates a "brew pub" pursuant to NRS 597.230 is eligible to apply for, hold or renew a liquor license that allows the holder to sell alcoholic beverages in packages to the public for off-site consumption or for consumption outside the tavern-restaurant.

"Bartop" means a physical structure with a flat horizontal counter, which when located in a licensed tavern with restricted or limited gaming or tavern-restaurant (full service eating and drinking establishment) with restricted or limited gaming, shall be at least forty-two inches in height (except for only that portion which is mandated to be a different height in order to comply with the Americans with Disabilities Act of 1990, as amended, or other applicable law) which fully encompasses the main work area of the bartender(s) or attendant(s), including the point of sale system or cash register, on one side of which alcoholic beverages are kept, maintained, and prepared and where seats are placed for patrons to sit on the side opposite from where the alcoholic beverages are kept, and where the sale and service of alcoholic beverages are by the drink across such structure.

"Bartop Machine" means a slot machine which is installed into the flat horizontal counter of a "bartop", as defined in this Section and for which the bartop is the cabinetry of the slot machine. Unless a different height is required for some of the bartop machines to comply with the Americans with Disabilities

Act of 1990, as amended, or other applicable law, the screen of the bartop machine shall be at a minimum height of forty-inches, from the bottom of the bartop, on the patron's side of the bartop. A bartop machine shall not be capable of operating except when installed into a "bartop" and any slot machine commonly referred to as "stand-up" or "slant-top" slot machine shall not qualify as a bartop machine.

"**Beer**" means any liquor obtained by the alcoholic fermentation of an infusion or decoction of malt, barley and hops, or any other similar product, or any combination thereof, in drinking water.

"**Board**" means the liquor and gaming board of Washoe County established pursuant to this chapter.

"**Brew pub**" has the meaning set forth in NRS 597.200.

"**Brewery**" has the meaning set forth in NRS 369.180.

"**Cabaret license**" means a license for a tavern having an orchestra or any type of live entertainment, or where dancing is permitted.

"**Caterer, liquor**": see "liquor caterer".

"**Commissioners**" means the Washoe County Board of County Commissioners.

"**Convenience store**" means a store which is principally devoted to providing the public with a convenient location to purchase consumable products quickly and in which the area open to the public is at least 1,000 square feet and no more than 10,000 square feet.

"**Craft distillery**" has the meaning set forth in NRS 597.200.

"**Department**" means, unless specifically used otherwise, the department of taxation of the State of Nevada.

"**Department application**" means a State of Nevada department of taxation application for a license or permit to import liquors; engage in business as a wholesale dealer of wines and liquors, or beers; operate a winery or instructional wine-making facility; export wine; operate a brewery; or, operate a brew pub.

"**Distillation**" means the process of producing or purifying spirituous liquor by successive evaporation and condensation.

"**Employee**" means a person or persons employed by or providing service to another person. The person or persons thus employed are usually paid in wages or salary, regardless of whether the compensation is paid directly to the employee or indirectly through another for the services performed.

"**Enforcement official**" has the meaning assigned to it under Section 30.004.

"**Gaming employee**" has the meaning assigned to it under NRS 463.0157.

"**Grandfathered Tavern or Grandfathered Tavern-Restaurant**" means a tavern or tavern-restaurant business that holds a valid

Washoe County gaming license and a valid State of Nevada restricted gaming license as of April 20, 2018; or, the application for a Washoe County gaming license based on a State of Nevada restricted gaming license was approved prior to April 20, 2018. Except as otherwise provided herein, a tavern or a tavern-restaurant that has been determined to be a grandfathered tavern or a grandfathered tavern-restaurant pursuant to the foregoing provision because its application for a Washoe County gaming license based on a State of Nevada restricted gaming license was pending or approved prior to the effective date of this ordinance, shall be considered to be a primary or principal commercial use of a restricted or limited gaming operation to which the operation of fifteen (15) or fewer slot machines shall be presumed to be incidental or ancillary as long as it continues to be a grandfathered tavern or grandfathered tavern-restaurant.

"Grocery store" means a store which is principally devoted to the sale of food for human consumption off the premises or which derives a substantial amount of its gross revenue from the sale of food for human consumption off the premises, regardless of whether the store is also devoted to or derives gross revenue from the sale of nonfood items. The area open to the public is more than 10,000 square feet of floor space. The term does not include:

(a) A convenience store.

(b) A store at which the sale of food for human consumption off the premises is incidental to the principal purpose of the store.

"Gross liquor receipts" means the total sum of the sale price of all sales of intoxicating liquor in the unincorporated area of Washoe County, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, losses or other expenses whatsoever. "Gross liquor receipts" does not include any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

"House coach" means a motor vehicle which is designed, constructed and equipped as a dwelling place or living abode, either permanently or temporary.

"Importer" has the meaning set forth in NRS 369.030.

"Instructional wine-making facility" has the meaning set forth in NRS 369.035.

"Intoxicating liquor" means:

(a) The four varieties of liquor: Alcohol, spirits, wine and beer, and every liquor or solid, patented or not, containing one-half of one percent or more of alcohol by volume, and is intended for consumption by human beings as a beverage; and,

(b) Is synonymous with "alcoholic liquor" and "alcoholic beverage."

Any liquid containing beer or wine in combination with any other liquor shall not be construed to be beer or wine, but is construed to be an intoxicating liquor.

"Intoxicating liquor license" is used interchangeably with and to mean any of the following licenses:

- (a) Brew pub license.
- (b) Brewery license.
- (c) Cabaret license.
- (d) Craft distillery license.
- (e) Importer/wholesaler intoxicating liquor license.
- (f) Liquor catering license.
- (g) Liquor-tasting license.
- (h) Package beer license.
- (i) Package liquor license.
- (j) Retail beer and wine license.
- (k) Service bar license.
- (l) Tavern license.
- (m) Temporary intoxicating liquor license.
- (n) Wine-maker's license.

"License division" means the business license staff and code enforcement personnel of the community services department.

"Licensee" means any person to whom an intoxicating liquor license has been issued, and is used in this chapter in the plural as well as the singular sense.

"Liquor" means beer, wine, gin, whiskey, cordials, ethyl alcohol or rum, and every liquid containing one-half of 1 percent or more of alcohol by volume and which is used for beverage purposes.

"Liquor caterer" means a person who dispenses, serves, provides, or sells intoxicating liquors by the drink only for consumption on the premises where the intoxicating liquors are dispensed. The liquor caterer's services must be performed at diverse locations on a shifting and intermittent basis, as opposed to a permanent location.

"Main bar" means a bar where intoxicating liquors are dispensed by the drink for consumption on the premises.

"Open container" means a container which has been opened or the seal of which has been broken.

"Package beer license" means a license for any place, including retail stores, where beer is sold or otherwise lawfully distributed for consumption off premises.

"Package liquor license" means a license for any place, including retail stores, where intoxicating liquor is sold or otherwise lawfully distributed for consumption off premises.

"Passenger area" means that area of a vehicle which is designed for the seating of the driver or a passenger.

"Person" means a natural person, firm, association, partnership, corporation, or other entity.

"Private Club" means any association of persons, whether incorporated or unincorporated, for the promotion of some common object, but not including associations organized for any commercial or business purpose.

"Rectifier" means any person who imports liquor into the State for the purpose of rectification. Pursuant to NRS 369.415, a rectifier is an importer. A rectifier will be required to obtain an importer license from the department pursuant to NRS 369.180.

"Retail beer and wine license" means a license for any place where beer or wine is sold at retail by the drink to the general public for consumption on the premises. Retail beer and wine establishments include, but are not limited to, licensed restaurants serving beer and wine for consumption with meals.

"Sale" and **"to sell"** as used in this chapter means and includes any of the following:

- (a) To exchange, barter, possess or traffic in;
- (b) To solicit or receive an order for;
- (c) To keep or expose for sale;
- (d) To serve with meals;
- (e) To deliver for value or in any way other than gratuitously;
- (f) To peddle;
- (g) To possess with intent to sell;
- (h) To transfer to anyone for sale or resale;
- (i) To possess or transport in contravention of this chapter;
- (j) To traffic in for any consideration, promised or obtained directly or indirectly; or
- (k) To procure or allow to be procured for any reason.

"Service bar" means any bar within an already licensed premises where drinks are prepared for service only at tables in hotels, restaurants or casinos and for consumption on the premises, and does not permit sales directly to the customers at such bar.

"Sheriff" means the sheriff of Washoe County, Nevada, or his/her designee.

"Spirits" means any liquor which contains alcohol obtained by distillation, mixed with drinkable water and other substances in solution, including rum, brandy, whiskey, and gin.

"Supplier" means, with respect to liquor which is brewed, distilled, fermented, manufactured, rectified, produced, or bottled, the brewer, distiller, manufacturer, producer, vintner or bottler of liquor, any subsidiary or affiliate of the supplier, or his or her designated agent.

"Tavern" means a bar, or saloon type establishment without live entertainment and where dancing is prohibited, which is

primarily engaged in selling or serving alcoholic beverages at retail by the drink to the general public for on premises consumption, with the ability to request approval for the following ancillary activities; food service, and restricted or limited gaming. The conduct of a tavern business necessarily includes operation under a valid on-premises intoxicating liquor license. A restaurant may be operated on the same premises as a tavern. See tavern-restaurant definition in this Section. Except as otherwise provided in this Section, a tavern that holds a restricted or limited gaming license as an ancillary or accessory activity to a tavern business or facility is not eligible to apply for, hold or renew a package beer license, package liquor license or other liquor license that allows the holder to sell alcoholic beverages in packages to the public for off-site consumption or for consumption outside the tavern. A tavern that holds a state "supplier's license" as defined in NRS 369.111 or operates a "brew pub" pursuant to NRS 597.230 is eligible to apply for, hold or renew a liquor license that allows the holder to sell alcoholic beverages in packages to the public for off-site consumption or for consumption outside the tavern. Tavern includes, but is not limited to, a bar, a cocktail lounge, and saloon.

~~"Tavern" means any place, without live entertainment and where dancing is prohibited, where intoxicating liquors are sold at retail by the drink to the general public for consumption on the premises. Tavern includes, but is not limited to, bars, cocktail lounges, or saloons.~~

"Temporary intoxicating liquor license" means a license approved by the license division for the sale of intoxicating liquor at such locations and time periods as specified on the license. A temporary intoxicating liquor license is in addition to any special event, community event, or festival license issued pursuant to Chapters 25 and 110 of this Code.

"Valid alcohol education card" means a card issued by a program certified pursuant to NRS 369.625 through NRS 369.635, inclusive, as amended, and which has been obtained or renewed within the immediately preceding 4 years.

"WCC" means the Washoe County Code, as may be amended.

"Wholesaler" means any person in possession of intoxicating liquors for the purpose of sales to package or retail outlets, or the meaning set forth in NRS 369.130.

"Wine" means any intoxicating liquor obtained by the fermentation of natural sugar contents of fruits or other agricultural products containing sugar, including fortified wines such as port, sherry, and champagne.

"Work permit" means a revocable, limited-term grant of permission to work in certain occupations within the County, issued by the sheriff to a natural person, and is synonymous

with "work card." "Work permit" means both a temporary work permit and a permanent work permit.

SECTION 2. Section 30.355 of the Washoe County Code is hereby added to read as follows:

30.355 Operation of Tavern or Tavern-Restaurant with Restricted or Limited Gaming. The following shall apply to the licensing of taverns with a State of Nevada restricted gaming license and tavern-restaurants with a State of Nevada restricted gaming license:

1. Unless a tavern is a grandfathered tavern or a tavern-restaurant is a grandfathered tavern-restaurant, an applicant for a County gaming license to operate more than seven (7) slot machines as incidental or ancillary to the operation of the tavern or tavern-restaurant, must have or install and then maintain at all times a bartop in which all of the permitted slot machines on the premises are installed and continuously operated as bartop machines, and no less than twelve (12) of such bartop machines meet the requirements as set forth in the definition of bartop machine in this Chapter, unless the business operates less than twelve (12) bartop machines, in which instance all bartop machines except for one (1) bartop machine shall meet requirements as set forth in the definition of bartop machine.

2. A grandfathered tavern or a grandfathered tavern-restaurant shall not be required to comply with the requirements of subsection (1) above; provided, however, that a grandfathered tavern or grandfathered tavern-restaurant that has an existing bartop and bartop machines installed in the bartop as of April 20, 2018 shall be required to comply with subsection (1) above in the event the owner, licensee, operator or transferee fails to operate and maintain the tavern or tavern-restaurant in a manner substantially similar to the manner of operation and physical layout of the tavern or tavern-restaurant as of April 20, 2018, including, but not limited to removing the bartop, if applicable, or reducing the number of bartop machines, if applicable, operated on the premises. Nothing contained in this Section shall prohibit an owner, licensee, or operator from improving, refurbishing or redecorating a tavern or a tavern-restaurant; provided any grandfathered tavern or grandfathered tavern-restaurant that operates slot machines on the premises pursuant to a State of Nevada restricted gaming license must continue to operate such tavern or tavern-restaurant in order to remain a grandfathered tavern or tavern-restaurant.

3. A tavern or a tavern-restaurant that, upon licensing and thereafter, continues to meet the bartop and bartop machine criteria set forth in subsection (1) above shall be considered to be a primary business, to which the operation of fifteen or

fewer slot machines shall be presumed to be incidental or ancillary to the primary business.

SECTION 3. Section 30.360 is hereby amended to read as follows:

30.360 License application.

1. Every person who engages in the operation of any gambling game or device in Washoe County must first obtain a gaming license pursuant to the gaming provisions of this chapter. Application for gaming licenses shall be made by filing an application with the license division on a form provided by the division. Each application shall be accompanied by the required license fee and by proof that the applicant holds a valid license issued by the state of Nevada authorizing the particular games or devices at the specified location. The application shall contain:

(a) The name, mailing address, physical home address, social security number, and telephone number of the applicant.

(b) The physical address of the location to be used.

(c) ~~A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct, the declaration being dated and signed in the county.~~ **Each licensee, that operates slot machines on the premises pursuant to a State of Nevada restricted gaming license shall submit a diagram of its premises, on an 8-1/2" by 11" or larger sheet of paper, depicting the configuration of the premises with the licensee's application for its business license or annual application for its business license renewal. The diagram shall depict the location of all slot machines, and the location of the restaurant and kitchen, if applicable. The accuracy of the submitted diagram is subject to verification by the county. In the event a Tavern or tavern-restaurant is not operating in compliance with the definitions provided in this Chapter and other applicable sections of Washoe County Code, the tavern or tavern-restaurant shall reduce the number of slot machines in operation to seven (7) within thirty (30) days after notice from the county.**

(d) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct, the declaration being dated and signed in the county.

SECTION 4. Section 30.400 of the Washoe County Code is hereby amended to read as follows:

30.400 Renewal; notice of due date; substantial changes.

1. The license division may attempt to notify each licensee of the due date of any fees required in this chapter. However, neither the license division's failure to attempt such notification nor the failure of the licensee to actually receive

such notice excuses the licensee from a timely tender of such fees.

2. All licensees required to have a gaming license under the gaming provisions of this chapter who desire to renew an existing valid county gaming license, provided there has been no change in location, are required to pay the license fees established in Sections 30.390 and 30.391.

3. If, during the preceding calendar quarter, there has been a change in ownership or location of the gaming establishment, games, or devices, or if the state gaming license has been revoked, suspended, conditioned, or limited, or if the number of games, slot machines, and other gaming devices has changed, **including compliance with Section 30.355**, or if there has been any other substantial change in the operation of the business, the applicant shall inform the license division and the license division may require an application for a new license and may proceed in the same manner as provided for an application for a new license. Review fees which may be required for an application for renewal are not refundable, whether or not the license is renewed. **Failure to comply with Section 30.355 of this Chapter shall require the licensee to remove all but seven (7) slot machines in order for the license to renew.**

SECTION 5. Section 30.419 of the Washoe County Code is hereby amended to read as follows:

30.419 Suspension and revocation of, and not renewing, gaming licenses.

1. Any license issued pursuant to the gaming provisions of this chapter or any amendment thereof may be suspended or revoked, **or not renewed**, for good cause. Good cause for such suspension or revocation, **or not renewing**, includes, but is not limited to:

(a) The existence of unsanitary conditions, noise, disturbances and other conditions at, near or on the premises which cause or tend to cause or create a public nuisance or which injuriously affect the public health, safety or welfare.

(b) The commission of, or permitting or causing the commission of, any act in the operation of the business which act is made unlawful or is prohibited by any applicable law, ordinance, rule or regulation of any city, county, state or the Federal Government.

(c) Fraudulent practices or misrepresentations in the operation of the business, ~~or concealment or misrepresentation of a material fact in procuring the license.~~

(d) Providing false or misleading information on an application, or concealment or misrepresentation of a material fact in procuring the license.

(~~de~~) Any action or circumstance which would warrant the denial of the issuance or renewal of the license.

(ef) Violation of any of the terms or conditions of the license.

2. Upon failure to tender any required fees for a period of 30 days after the due date, the license shall be automatically suspended without further notice or proceedings.

SECTION 6. General Terms.

1. All actions, proceedings, matters, and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.
2. The Chairman of the Board and officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance. The District Attorney is authorized to make non-substantive edits and corrections to this Ordinance.
3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.
4. Each term and provision of this Ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or provision of this Ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then the offending provision or term shall be excised from this Ordinance. In any event, the remainder of this Ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

[Business Impact Note: The Board of County Commissioners hereby finds that this ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

Passage and Effective Date

Proposed on _____ (month) _____ (day), 2018.

Proposed by Commissioner _____.

Passed on _____ (month) _____ (day), 2018.

Vote:

Ayes:

Nays:

Absent:

Marsha Berkbigler, Chair
Washoe County Commission

ATTEST:

Nancy Parent, County Clerk

This ordinance shall be in force and effect from and after the 20th day of the month of April of the year 2018.