

Item # 29

**City of Carson City
Agenda Report**

Date Submitted: October 6, 2009

Agenda Date Requested: October 15, 2009

Time Requested: 20 minutes

To: Mayor and Board of Supervisors

From: Public Works-Business License Division

Subject Title: Action to introduce on first reading, Bill No. _____, an ordinance amending the Carson City Municipal Code Title 4, Licenses and Business regulations, Chapter 13, Liquor Board and Liquor Licensing and Sales, by adding Section 4.13.115, Death of or change to person listed on license, to require notification of the death of a person or change to a person listed on a license and Section 4.13.125, Issuance or denial of a license, to set forth grounds for the issuance or denial of a license And amending Section 4.13.010, Definitions, by amending various definitions, Section 4.13.060, Application for license, Section 4.13.070, Investigation -- Fees and Section 4.13.190, Unlawful to serve minors, by making technical changes, Section 4.13.100, License—Board procedure, to allow the authorized representative of an applicant to appear before the board, Section 4.13.105, New License, to make technical clarifications regarding fees for applications for a license, Section 4.13.110, License-fees, to provide that failure to pay a license fee shall result in the expiration of the license, section 4.13.120, License—transferability and use, to authorize the temporary transfer of a license in certain circumstances, Section 4.13.135, Reactivation of prior existing license, to clarify when a new application fee is not required, Section 4.13.140, Grounds for disciplinary action, to provide that the failure to pay a fine is a ground for disciplinary action, Section 4.13.150, Disciplinary action procedure and penalties, to revise the procedures regarding disciplinary action, Section 4.13.170, Qualifications of employees, to make various changes relating to the training of employees, Section 4.13.240, Application for short-term permit, to allow for the waiver of the deadline for filing an application for the permit and Section 4.13.260, Denial—remedy, to revise the procedures for the approval of a short term permit and other matters properly related thereto. (Jennifer Pruitt)

Staff Summary: The proposed changes to the current provisions of the Carson City Municipal Code governing the issuance and regulation of liquor licenses include the following section additions: 4.13.115 Change in Corporate Officers and Directors and 4.13.125 Issuance or denial of license. Other changes include the addition of a hearings officer in the disciplinary action process, expiration of license for failure to pay annual liquor license fees within 30 days of due date, and the requirement of a liquor license holder to maintain an alcohol training program.

Type of Action Requested:

☐ Resolution

☒ Ordinance

☐ Formal Action/Motion

☐ Other (Specify)

Does This Action Require A Business Impact Statement:

☐ Yes ☒ No

Recommended Board Action: I move to introduce, on first reading, Bill No. _____, an ordinance amending the Carson City Municipal Code Title 4, Licenses and Business regulations, Chapter 13, Liquor Board and Liquor Licensing and Sales, by adding Section 4.13.115, Death of or change to person listed on license, to require notification of the death of a person or change to a person listed on a license and Section 4.13.125, Issuance or denial of a license, to set forth grounds for the issuance or denial of a license And amending Section 4.13.010, Definitions, by amending various definitions, Section 4.13.060, Application for license, Section 4.13.070, Investigation – Fees and Section 4.13.190, Unlawful to serve minors, by making technical changes, Section 4.13.100, License—Board procedure, to allow the authorized representative of an applicant to appear before the board, Section 4.13.105, New License, to make technical clarifications regarding fees for applications for a license, Section 4.13.110, License-fees, to provide that failure to pay a license fee shall result in the expiration of the license, section 4.13.120, License—transferability and use, to authorize the temporary transfer of a license in certain circumstances, Section 4.13.135, Reactivation of prior existing license, to clarify when a new application fee is not required, Section 4.13.140, Grounds for disciplinary action, to provide that the failure to pay a fine is a ground for disciplinary action, Section 4.13.150, Disciplinary action procedure and penalties, to revise the procedures regarding disciplinary action, Section 4.13.170, Qualifications of employees, to make various changes relating to the training of employees, Section 4.13.240, Application for short-term permit, to allow for the waiver of the deadline for filing an application for the permit and Section 4.13.260, Denial—remedy, to revise the procedures for the approval of a short term permit and other matters properly related thereto.

Explanation for Recommended Board Action: The Board of Supervisors, pursuant to Carson City Municipal Code, is required to take action on all code amendments.

Applicable Statute, Code, Policy, Rule or Regulation: CCMC Title 4.13

Fiscal Impact: N/A

Explanation of Impact: N/A

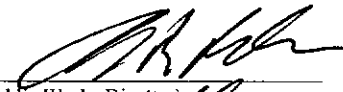
Funding Source: N/A

Alternatives: 1) Refer the matter back to the Business License Division for further review, or
2) Deny

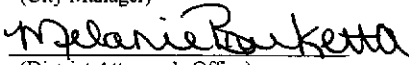
Supporting Material: 1) CCMC 4.13

Prepared By: Lena Tripp, Senior Permit Technician

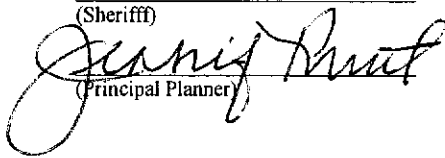
Reviewed By:


(Public Works Director)


(City Manager)


(District Attorney's Office)

(Sheriff)


(Principal Planner)

Date: 10-6-09

Date: 10-6-09

Date: 10-6-09

Date: _____

Date: 10-6-09

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

ORDINANCE NO. _____

BILL NO. _____

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 4, LICENSES AND BUSINESS REGULATIONS, CHAPTER 13, LIQUOR BOARD AND LIQUOR LICENSING AND SALES, BY ADDING SECTION 4.13.115, DEATH OF OR CHANGE TO PERSON LISTED ON LICENSE, TO REQUIRE NOTIFICATION OF THE DEATH OF A PERSON OR CHANGE TO A PERSON LISTED ON A LICENSE AND SECTION 4.13.125, ISSUANCE OR DENIAL OF A LICENSE, TO SET FORTH GROUNDS FOR THE ISSUANCE OR DENIAL OF A LICENSE AND AMENDING SECTION 4.13.010, DEFINITIONS, BY AMENDING VARIOUS DEFINITIONS, SECTIONS 4.13.060, APPLICATION FOR LICENSE, SECTION 4.13.070, INVESTIGATION – FEES AND SECTION 4.13.190, UNLAWFUL TO SERVE MINORS, BY MAKING TECHNICAL CHANGES, SECTION 4.13.100, LICENSE—BOARD PROCEDURE, TO ALLOW THE AUTHORIZED REPRESENTATIVE OF AN APPLICANT TO APPEAR BEFORE THE BOARD, SECTION 4.13.105, NEW LICENSE, TO MAKE TECHNICAL CLARIFICATIONS REGARDING FEES FOR APPLICATIONS FOR A LICENSE, SECTION 4.13.110, LICENSE-FEES, TO PROVIDE THAT FAILURE TO PAY A LICENSE FEE SHALL RESULT IN THE EXPIRATION OF THE LICENSE, SECTION 4.13.120, LICENSE—TRANSFERABILITY AND USE, TO AUTHORIZE THE TEMPORARY TRANSFER OF A LICENSE IN CERTAIN CIRCUMSTANCES, SECTION 4.13.135, REACTIVATION OF PRIOR EXISTING LICENSE, TO CLARIFY WHEN A NEW APPLICATION FEE IS NOT REQUIRED, SECTION 4.13.140, GROUND FOR DISCIPLINARY ACTION, TO PROVIDE THAT THE FAILURE TO PAY A FINE IS A GROUND FOR DISCIPLINARY ACTION, SECTION 4.13.150, DISCIPLINARY ACTION PROCEDURE AND PENALTIES, TO REVISE THE PROCEDURES REGARDING DISCIPLINARY ACTION, SECTION 4.13.170, QUALIFICATIONS OF EMPLOYEES, TO MAKE VARIOUS CHANGES RELATING TO THE TRAINING OF EMPLOYEES, SECTION 4.13.240, APPLICATION FOR SHORT-TERM PERMIT, TO ALLOW FOR THE WAIVER OF THE DEADLINE FOR FILING AN APPLICATION FOR THE PERMIT AND SECTION 4.13.260, DENIAL—REMEDY, TO REVISE THE PROCEDURES FOR THE APPROVAL OF A SHORT TERM PERMIT AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

Section I: That Chapter 4.13, Liquor Board and Liquor Licensing and Sale, of the Carson City Municipal Code be amended as follows:

Chapter 4.13 LIQUOR BOARD AND LIQUOR LICENSING AND SALES

GENERALLY

Sections:

- 4.13.010 Definitions.
- 4.13.020 Meetings of board--Quorum--Voting--Compensation--Chairman--Clerk.
- 4.13.030 Powers and duties of the board.
- 4.13.040 License required.
- 4.13.050 Classes of licenses--Separate entity.
- 4.13.060 Application for license.
- 4.13.070 Investigation--Fees.
- 4.13.080 Investigation--Duties of sheriff.
- 4.13.090 Health department duties.
- 4.13.100 License--Board procedure.
- 4.13.105 [New License] License application fees.
- 4.13.110 License--Fees.
- 4.13.115 Change in Corporate Officers and Directors
- 4.13.120 License--Transferability and use.
- 4.13.125 Issuance or denial of license
- 4.13.130 Right of inspection.
- 4.13.135 Reactivation of prior existing license.
- 4.13.140 Grounds for disciplinary action.
- 4.13.150 Disciplinary action procedure and penalties.
- 4.13.160 Emergency summary suspension.
- 4.13.170 Qualifications of employees.
- 4.13.180 Minors--Possession prohibited.
- 4.13.190 Unlawful to serve minors.
- 4.13.200 Hours of operation for licensees.
- 4.13.210 Possession of open liquor and consumption of liquor in public prohibited.

SHORT-TERM PERMITS

Sections:

- 4.13.220 Definitions.
- 4.13.230 Time limit.
- 4.13.240 Application for short-term permit.
- 4.13.250 Approval of short-term permit.
- 4.13.260 Denial--Remedy.
- 4.13.265 Special short-term permit.
- 4.13.266 Application for a special short-term permit.
- 4.13.267 Approval of special short-term permit.

VIOLATION AND SEVERABILITY

Sections:

- 4.13.270 Violation of chapter.

4.13.280 Severability.

Section II: That Section 4.13.010, Definitions, of the Carson City Municipal Code be amended as follows:

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.
2. "Board" means the Carson City liquor board which is composed of the board of supervisors and the sheriff.
3. "Business License Division" means the business license division of the Carson City ~~[Development Services]~~ Public Works Department.
4. "Dining 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 ~~[has]~~ have suitable kitchen facilities connected therewith complying with all regulations of the departments of health of the city and state.
5. "Director" means the director of the department of ~~[development services]~~ Public Works.
6. "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.
- ~~[6.]~~ 7. "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 or more by volume which is used for beverage purposes.
- ~~[7-]~~ 8. "Liquor 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 working days prior to the occurrence of the same.
- ~~[8-]~~ 9. "Packaged 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.
- ~~[9-]~~ 10. "Person" means any individual, firm, association, partnership, corporation, or other entity.
- ~~[10-]~~ 11. "Owner" means the person, firm or corporation on file with the Business License Division who holds the liquor license.
- ~~[11-]~~ 12. "Retail" means the sale of liquor by the package, bottle or ~~[drink]~~ drinks to consumers.
- ~~[12-]~~ 13. "Tavern" means any bar, cocktail lounge, or club, with or without live or recorded entertainment, and with or without dancing.
- ~~[13-]~~ 14. "Wine" means any alcoholic beverage, 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.

[14-]15. "Wholesale 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.

(Ord. 2008-25 § 2, 2008; Ord. 1999-23 (part), 1999; Ord. 1992-2 § 2, 1992; Ord. 1989-40 § 1, 1989; Ord. 1979-14 § 1, 1979; Ord. 1978-30 § 1 (part), 1978).

Section III: That Section 4.13.060, Application for license, of the Carson City Municipal Code be amended as follows:

4.13.060 Application for license.

1. Application for any license provided in this chapter shall be made to the board in writing on the form provided by the business license division.
2. Each application shall:
 - a. Be filed with the business license 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 any other person having an interest in the business to be licensed. If the applicant is: (1) A partnership, the application shall include the names and addressees of all partners. (2) A corporation, association, or other organization, the application shall include the names and addresses of all officers, directors, stockholders having more than ~~twenty-five percent (25%)~~ 25% of the issued stock, resident agents, and the principal place of business of the corporation. If, however it is a corporation whose stock is sold to the general public, then the stockholders need not be listed;
 - 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 shall conduct or have an interest in the business activities for which a liquor license is required. In the case of corporations, clubs or organizations with members, the application shall be verified by the president or secretary or the person who shall actively manage or conduct the business or activity for which a liquor license is required.
 - h. Assure that all employees serving and/or selling liquor will complete a server training course acceptable to the Sheriff's Office within 120 days of obtaining a license.
3. Any application required by or allowed by this chapter must be given a hearing within 45 days of the date the application is complete.
(Ord. 2008-25 § 3, 2008; Ord. 1995-26 § 3, 1995; Ord. 1989-40 § 3, 1989; Ord. 1982-22 § 1, 1982; Ord. 1978-30 § 1 (part), 1978).

Section IV: That Section 4.13.070, Investigation-Fees, of the Carson City Municipal

Code be amended as follows:

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. Each applicant for a liquor license shall pay an investigation fee to the business license division of ~~[five hundred dollars (\$500.00)]~~ \$500.00 at the time of filing the application or when the investigation is required. If more than one ~~[(4)]~~ individual must be investigated, the investigation fee is ~~[five hundred dollars (\$500.00)]~~ \$500.00 for the first individual plus ~~[seventy five dollars (\$75.00)]~~ \$75.00 for each additional individual. A change in liquor managers requires a ~~[seventy five dollar (\$75.00)]~~ \$75.00 investigation fee. Once an investigation has begun the fee will be nonrefundable.
(Ord. 2008-25 § 4, 2008; Ord. 1999-23 (part), 1999; Ord. 1995-26 § 4, 1995; Ord. 1989-40 § 4, 1989; Ord. 1982-22 § 2, 1982; Ord. 1979-14 § 3, 1979; Ord. 1978-30 § 1 (part), 1978).

Section V: That Section 4.13.100, License—Board procedure, of the Carson City Municipal Code be amended as follows:

4.13.100 License--Board procedure.

1. After completion of the investigation by the sheriff and the inspection by the health department, the business license division shall cause the application to be placed upon the agenda for consideration by the liquor board.
2. The applicant or applicants or their authorized representative shall appear before the board at the appointed time for approval or denial of the license.
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.
4. The annual license fee required pursuant to Section 4.13.110 of this chapter shall be due upon the approval of the issuance of the license by the liquor board.
(Ord. 2008-25 § 5, 2008; Ord. 1989-40 § 6, 1989; Ord. 1978-30 § 1 (part), 1978).

Section VI: That Section 4.13.105, New License, of the Carson City Municipal Code be amended as follows:

4.13.105 ~~[New license]~~ License application fees.

1. Each application for a new license, ~~[each application for an]~~ additional location for liquor service, ~~[and each application]~~ or to add a person or persons to an existing license must be accompanied by the following fee:
 - a. For a beer and wine type, \$500.00;
 - b. For a ~~[hard]~~ liquor type, \$1,000.00;

- c. To ~~[upgrade a \$500.00 fee license to a \$1,000.00 fee license]~~ change the license from beer and wine type license to a liquor type license, \$500.00;
- d. To ~~[upgrade]~~ change from a package liquor or an "on premise" license to a combination package and "on premise" liquor license, no application fee.
2. ~~[A new license fee is]~~ Fifty percent of the license application fee is refundable [to the person who paid it] if the application [or addition] 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 division.
3. An application for a change in the active manager does not require a [new] license application fee.
- (Ord. 2008-25 § 6, 2008; Ord. 2005-3 § 1 (part), 2005: Ord. 1999-23 (part), 1999: Ord. 1995-26 § 5, 1995: Ord. 1989-40 § 7, 1989).

Section VII: That Section 4.13.110, License--Fees, of the Carson City Municipal Code be amended as follows:

4.13.110 License--Fees.

1. The license 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. All liquor license fees shall 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.
 3. ~~[Failure to pay any]~~ A license for which the liquor license fee [on or before] has not been paid within 30 days of the due date shall be [grounds for revocation of the liquor license.] deemed expired and shall no longer authorize the sale of alcohol.
Notwithstanding any other provision of law, a license expired pursuant to this subsection shall not be reinstated until the 50 percent penalty fee required pursuant to subsection 2 has been paid in addition to the regular license fee.
 4. License fees for new licenses shall be prorated on a monthly basis from July to June.
- (Ord. 2008-25 § 7, 2008; Ord. 2005-3 § 1 (part), 2005: Ord. 1992-2 § 4, 1992: Ord. 1989-40 § 8, 1989: Ord. 1983-27 § 1, 1983: Ord. 1981-39 § 1, 1981: Ord. 1979-34 § 1, 1979: Ord. 1979-14 § 5, 1979: Ord. 1978-30 § 1 (part), 1978).

Section VIII: That Section 4.13.115, Death of or Change to Person Listed on a License,

of the Carson City Municipal Code be added as follows:

4.13.115 Death of or Change to Person Listed on a License

In the event of death of a person licensed pursuant to this chapter or, in the case of a corporate licensee, any change in the officers or directors of a corporation licensed pursuant to this chapter shall be reported to the license division within 30 days after the death of the person or the change in officers and directors.

Section IX: That Section 4.13.120, License—Transferability and use, of the Carson City Municipal Code be amended as follows:

4.13.120 License--Transferability and use.

1. [A] Except as otherwise provided in subsection two, 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 ninety (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

(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.

[2.] 4. It is unlawful for any person to sell, serve or dispense liquor in any building or room not designated in the license.

(Ord. 2008-25 § 8, 2008; Ord. 1999-23 (part), 1999; Ord. 1995-26 § 6, 1995; Ord. 1978-30 § 1 (part), 1978).

Section X: That Section 4.13.125, Issuance or denial of license, of the Carson City Municipal Code be added as follows:

4.13.125 Issuance or denial of license

1. The Carson City Liquor Board 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.

b. A person under the age of 21 years.

c. A person who is in arrears in child support payments.

d. A person whom the Carson City Liquor Board 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.

3. If an application for a liquor license is denied, the applicant thereof shall be notified in writing of the reason or reasons therefore.

Section XI: That Section 4.13.135, Reactivation of prior existing license, of the Carson City Municipal Code be amended as follows:

4.13.135 Reactivation of prior existing license.

If a liquor license holder voluntarily relinquishes a license, the license can be reissued within [4] one year, without the assessment of the original [new] application fee, upon approval of the board. A fee of \$100.00 will be assessed for investigative and administrative costs.

(Ord. 1999-23 (part), 1999).

Section XII: That Section 4.13.140, Grounds for disciplinary action, of the Carson City Municipal Code be amended as follows:

4.13.140 Grounds for disciplinary 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.
- (Ord. 2008-25 § 10, 2008; Ord. 1978-30 § 1 (part), 1978).

Section XIII: That Section 4.13.150, Disciplinary action procedure and penalties, of the Carson City Municipal Code be amended as follows:

4.13.150 Disciplinary action procedure and penalties.

1. The liquor board may, on its own motion or 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 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 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 be not less than 10 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] any person who has had a license revoked may reapply for a license after [6] six months after the revocation order, but a new license may only be issued by [a] an unanimous decision of all members of the board.

7. Disciplinary action is the procedure taken by the Board to conduct hearings regarding whether a licensee is in violation of applicable law, and the action which may be imposed by the Board pursuant to the hearings, which action consists of imposing the penalties set forth in paragraph 8 of this section.

8. Penalties that may be imposed upon a licensee by the Board for criminal citations issued within any six 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 Sheriff's Department, the Sheriff's Department shall notify the ~~[Development Services Department]~~ 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 ~~[Development Services Department]~~ Business License Division, or personal service of 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]~~ 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 has attended alcohol server training must be submitted to the Business License Division within 30 days of completion of the training. ~~[and will be notified within three business days by registered mail, sent by the Development Services Department, or personal service of the date and time of the occurrence and the name of the person to whom a citation was issued for violating a criminal statute.]~~

b. Second offense, if the person violating the criminal statute is issued a citation by the Sheriff's Department, the Sheriff's Department shall notify the ~~[Development Services Department]~~ 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 ~~[Development Services Department]~~ Business License Division, or personal service of 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 by personal service that they must attend the next regularly scheduled Carson City Liquor Board meeting. The Carson City Liquor board may issue a fine of up to \$500.00 for a second offense to the holder of the liquor license and require mandatory alcohol server training within three months of the hearing.]~~ 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 has 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 Sheriff's Department, the Sheriff's Department shall notify the ~~[Development Services Department]~~ 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 ~~[Development Services Department]~~ Business License Division, or personal service of 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 ~~{the next regularly scheduled Carson City Liquor Board meeting.}~~ a hearing before the Hearings Officer. ~~[The Carson City Liquor Board]~~ The Hearings Officer may issue a fine of \$1,500.00 for a third offense to the holder of the liquor license and also may suspend ~~{or}~~ 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 month period related to the sale of liquor at the licensed premises, the Sheriff, his designee, or the Board may suspend the liquor license of the license holder until the next meeting of the Carson City Liquor Board pursuant to the provisions of Section 4.13.160.

9. The holder of a liquor license upon whom a fine or other discipline has been imposed pursuant to subsection 8 may file an appeal pursuant to 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 subsection 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 3 business days by registered mail or personal service that they must attend a hearing before the Carson City Liquor 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 paragraph a or b of subsection 8 may file, in writing, not more than 15 days after the fine has been imposed, a request for an appeal with the Business License Division. 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 Hearings 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 Hearings Officer. The Hearings Officer may overturn the issuance of an administrative citation if the Hearings 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 meet 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 Hearings 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 Hearings 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 3 business days by registered mail or personal service that they must attend a hearing before the Carson City Liquor 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.

11. A holder of a liquor license upon whom a fine or other discipline has been imposed pursuant to paragraph c of subsection 8 may file, not more than 15 days after the fine or other discipline has been imposed, a request for an appeal with the Business License Division. 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 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 Board. The Carson City Liquor Board may overturn or modify the fine or other disciplinary action imposed by the Hearings Office if the Carson City Liquor Board determines that the Hearings 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 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 Hearings Officer was arbitrary or capricious. If the Carson City Liquor 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 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 3 business days by registered mail or personal service that they must attend a hearing before the Carson City Liquor 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.

12. The Hearings Officer shall hold public hearings at such times as are necessary to carry out the duties of the Hearings Officer set forth pursuant to the provisions of this chapter. The Hearing Officer 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 Hearing Officer. The Hearings Officer shall conduct the hearing fairly, evaluate evidence and issue binding decisions.

13. The Hearing Officer shall prepare and present to the Carson City Liquor Board, with the assistance of the Business License Division, an annual activity report in December of every year, which includes the disciplinary actions and penalties resulting from the Hearings Officer decisions and the Administrative Citation process.

(Ord. 2008-25 § 11, 2008; Ord. 1978-30 § 1 (part), 1978).

Section XIV: That Section 4.13.170, Qualifications of employees, of the Carson City Municipal Code be amended as follows:

4.13.170 Qualifications of employees.

1. Any employee ~~[or an establishment where alcoholic beverages are sold at retail for consumption on the premises, and/or, in or whereon gaming is done, before commencing to act or serve in that capacity after the effective date of this chapter,] of a holder of a liquor license shall [submit a written application to the sheriff's office. Refer to Chapter 8.28 dealing with sheriff's work cards.]~~ 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 on 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.

(Ord. 1999-23 (part), 1999; Ord. 1989-40 § 9, 1989; Ord. 1978-30 § 1 (part), 1978).

Section XV: That Section 4.13.190, Unlawful to serve minors, of the Carson City Municipal Code be amended as follows:

4.13.190 Unlawful to serve minors.

1. It shall be 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 ~~[(6)]~~ months, or by a fine or not less than ~~[two hundred fifty dollars (\$250.00)]~~ \$250.00 nor more than ~~[one thousand dollars (\$1,000.00)]~~, \$1000.00 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.

(Ord. 2008-25 § 13, 2008; Ord. 1984-14 § 1, 1984; Ord. 1978-30 § 1 (part), 1978).

Section XVI: That Section 4.13.240, Application for short-term permit, of the Carson City Municipal Code be amended as follows:

4.13.240 Application for short-term permit.

1. Application for a short-term permit must be made in writing on the form provided by the business license division at least 14 days prior to the [time] date for which the permit is sought. The 14 day deadline for submission of a short-term permit may be waived for good cause shown.

2. The fee for a short-term permit is twenty dollars (\$20.00) per day. Liquor short-term permit fees cannot be waived for any applicant. Short-term liquor permit fees are in addition to short-term business permit fees.

~~[3. For an event in which no admission or fee is charged and no alcoholic beverages are sold, the fee is waived.]~~

(Ord. 2008-25 § 14, 2008; Ord. 1999-23 (part), 1999; Ord. 1981-1 § 2, 1981; Ord. 1978-30 § 1 (part), 1978).

Section XVII: That Section 4.13.260, Denial--remedy, of the Carson City Municipal Code be amended as follows:

4.13.260 Denial--Remedy.

Any applicant for a short-term permit who fails to obtain unanimous approval of the [treasurer], sheriff, [community development] planning director, fire chief, health director, [development services], city engineer, and risk [management] manager, or is dissatisfied with the conditions imposed upon a permit which is approved, shall have the right, and shall be informed of his right, to appear before the liquor board for its consideration. In the event, a short-term permit is denied, any fees paid will not be refunded. (Ord. 1999-23 (part), 1999; Ord. 1078-30 § 1 (part), 1978).

Section XVIII: That no other provisions of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____ (month) _____ (day), 2009.

PROPOSED by _____.

PASSED _____ (month) _____ (day), 2009.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

ALAN GLOVER, CLERK/RECORDER.

This ordinance shall be in force and effect from and after the ___ day of the
month of _____ of the year, 2009.