

Carson City Agenda Report

Date Submitted: August 23, 2011

Agenda Date Requested: September 1, 2011

Time Requested: 20 minutes

To: Liquor and Entertainment Board

From: Business License Division

Subject Title: For possible action to adopt on second reading, Bill No.107, an ordinance amending the Carson City Municipal Code Title 4, Licenses and Business Regulations, Chapter 13, Liquor Board and Liquor Licensing and Sales, by amending Section 4.13.125, Issuance or denial of a license, adding that a Carson City employee who oversees or enforces the rules and regulations of liquor licenses may not have any involvement in an establishment that serves, sells, or dispenses alcohol, Section 4.13.220 Definitions, changing short term permits to special event liquor permits, Section 4.13.240 Application for a special event liquor permit, clarifying when a special event liquor permit is required and the application process. (Jennifer Pruitt/Lena Tripp)

Staff Summary: The proposed changes are to the current provisions of the Carson City Municipal Code governing the issuance and regulation of liquor licenses. Changes include not allowing a Carson City employee who oversees or enforces the rules and regulations of liquor licenses may not have any involvement in an establishment that serves, sells, or dispenses alcohol, the name of short term permits to special event liquor permits, clarifying the requirements and the application process for special event liquor permits.

Type of Action Requested:

Resolution

Formal Action/Motion

Ordinance

Other (Specify)

Does This Action Require A Business Impact Statement: () Yes (X) No

Recommended Board Action: I move to adopt on second reading, Bill No.107, an ordinance amending the Carson City Municipal Code Title 4, Licenses and Business Regulations, Chapter 13, Liquor Board and Liquor Licensing and Sales, by amending Section 4.13.125, Issuance or denial of a license, adding that a Carson City employee who oversees or enforces the rules and regulations of liquor licenses may not have any involvement in an establishment that serves, sells, or dispenses alcohol, Section 4.13.220 Definitions, changing short term permits to special event liquor permits, Section 4.13.240 Application for a special event liquor permit, clarifying when a special event liquor permit is required and the application process.

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




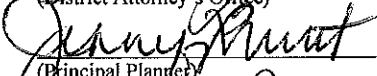

Explanation of Impact: N/A

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
2) CCMC 4.13 – as proposed
3) Memo stating changes

Prepared By: Lena Tripp, Senior Permit Technician

Reviewed By:  Date: 8-23-11
(Public Works Director)
 Date: 8-23-11
(City Manager)
 Date: 8/23/11
(District Attorney's Office)
 Date: 8-22-11
(Principal Planner)
 Date: 8/23/11
(Finance Director)

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____ _____

(Vote Recorded By)

ORDINANCE NO. _____

BILL NO. 107

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 4, LICENSES AND BUSINESS REGULATIONS, CHAPTER 4.13, LIQUOR BOARD AND LIQUOR LICENSING AND SALES, BY CHANGING THE NAME OF SECTION SHORT-TERM PERMITS TO SPECIAL EVENT LIQUOR PERMITS, AND BY AMENDING SECTION 4.13.125, ISSUANCE OR DENIAL OF LICENSE, ADDING THAT A CARSON CITY EMPLOYEE WHO OVERSEES OR ENFORCES THE RULES AND REGULATIONS OF LIQUOR LICENSES MAY NOT HAVE ANY INVOLVEMENT, INTEREST, OR MANAGEMENT OF ANY ESTABLISHMENT WHO POSSESSES A LIQUOR LICENSE, AND BY AMENDING 4.12.240, APPLICATION FOR A SPECIAL EVENT LIQUOR PERMIT, TO CLARIFY WHEN A SPECIAL EVENT LIQUOR PERMIT IS REQUIRED AND TO CLARIFY THE APPLICATION PROCESS AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

Section I: That Title 4, of the Carson City Municipal Code is hereby amended as follows:

Chapter 4.13 - LIQUOR BOARD AND LIQUOR LICENSING AND SALES

Sections:

GENERALLY
[SHORT-TERM] SPECIAL EVENT LIQUOR PERMITS
VIOLATION AND SEVERABILITY

GENERALLY

- 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 - License application fees.
- 4.13.110 - License—Fees.
- 4.13.115 - Death of or change to person listed on a license.
- 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.

Section II: Section 4.13.060 of the Carson City Municipal Code is hereby 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]~~ by affidavit on the form provided by the ~~[b]Business [l]License~~ division.
2. Each application shall:
 - a. Be filed with the ~~[b]Business [l]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 the name of any additional natural person who will serve as the liquor manager. If the applicant is: (1) A partnership, the application shall 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 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 be verified by the president or secretary and any natural person who is listed as a liquor manager~~[-];~~ and
 - h. 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.

Section III: Section 4.13.070 of the Carson City Municipal Code is hereby 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 [s]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 [b]Business [l]License 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 investigation fee is \$500.00 for the first individual plus \$75.00 for each additional individual. A change in liquor managers requires a \$75.00 investigation fee. Once an investigation has begun the fee will be nonrefundable.

Section IV: Section 4.13.080 of the Carson City Municipal Code is hereby amended as follows:

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.

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 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.

Section V: Section 4.13.090 of the Carson City Municipal Code is hereby amended as follows:

4.13.090 - Health department duties.

The [h]Health department, where applicable, shall inspect the premises wherein the applicant or applicants seek to be licensed. After such inspection, the [h]Health department shall indicate approval

or disapproval of the premises on the application form. If the [h]Health department disapproves the premises, the reasons and necessary corrections shall be stated.

Section VI: Section 4.13.100 of the Carson City Municipal Code is hereby amended as follows:

4.13.100 - License—Board procedure.

1. After completion of the investigation by the [s]Sheriff and the inspection by the [h]Health department, the [b]Business [l]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.

Section VII: Section 4.13.105 of the Carson City Municipal Code is hereby amended as follows:

4.13.105 - License application 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 fee:
 - a. For a beer and wine type, \$500.00;
 - b. For [a] any other liquor type, \$1,000.00;
 - c. To change the license from beer and wine type license to [a] 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 [b]Business [l]License division.
3. An application for a change in the active manager does not require a license application fee.

Section VIII: Section 4.13.115 of the Carson City Municipal Code is hereby amended 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 of a corporation listed on the application for a liquor license pursuant to this chapter, or any change in the person responsible for directing the day to day sales of

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

Section IX: Section 4.13.120 of the Carson City Municipal Code is hereby amended as follows:

4.13.120 - License—Transferability and use.

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

Section X: Section 4.13.125 of the Carson City Municipal Code is hereby amended 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.

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.

Section XI: Section 4.13.160 of the Carson City Municipal Code is hereby amended as follows:

4.13.160 - Emergency summary suspension.

1. Notwithstanding any of the provisions of this chapter, the Sheriff, his designee, or the Board may without prior notice suspend a license if:

a. Four or more criminal citations are issued within any six month period related to the sale of liquor at the licensed premises; or

b. The Sheriff, his designee, or the 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 subsection 1 of this section, the suspension shall remain in effect until the next meeting of the Liquor Board, subject to the requirements of Chapter 241 of the Nevada Revised Statutes. If the show cause hearing cannot be heard by the Board within 10 days of

suspension, the licensee can file a written request with the Carson City Clerk requesting a special meeting of the Board for the show cause hearing.

3. If the Sheriff's Department issues a suspension pursuant to 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 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.

Section XII: Section 4.13.210 of the Carson City Municipal Code is hereby amended as follows:

4.13.210 - Possession of open liquor and consumption of liquor in public 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 ~~[short-term]~~ a special event liquor permit.

Section XIII: Chapter 4.13 Short-Term Permits of the Carson City Municipal Code is hereby amended as follows:

[SHORT-TERM] SPECIAL EVENT LIQUOR PERMITS

4.13.220 - Definitions.

4.13.230 - Time limit.

4.13.240 - Application for ~~[short-term]~~ Special Event liquor permit.

4.13.250 - Approval of ~~[short-term]~~ Special Event liquor permit.

4.13.260 - Denial—Remedy.

Section XIV: Section 4.13.220 of the Carson City Municipal Code is hereby amended as follows:

4.13.220 - Definitions.

~~[Short-term]~~ "Special Event Liquor permit" means a permit for selling, serving, or dispensing liquor at a special event.

Section XV: Section 4.13.230 of the Carson City Municipal Code is hereby amended as follows:

4.13.230 - Time limit.

A ~~[short-term]~~ Special Event liquor permit may be issued for a maximum period not exceeding five consecutive days.

Section XVI: Section 4.13.240 of the Carson City Municipal Code is hereby amended as

follows:

4.13.240 - Application for ~~[short-term]~~ a Special Event liquor permit.

1. Application for a ~~[short-term]~~ Special Event liquor permit ~~[must]~~ shall be made ~~[in-writing]~~ by affidavit on the form provided by the ~~[b]Business~~ ~~[l]License~~ ~~[d]Division~~ at least 14 days prior to the date for which the permit is sought.

2. If liquor will be sold in any portion of the city's right-of-ways or on the sidewalk, the application must be accompanied by evidence of Liquor Liability insurance coverage in the amount of \$1,000,000 per occurrence stating the specific event and date, and list the City of Carson City, its officers, employees and agents as additionally insured.

~~[2.]~~ 3. The fee for a ~~[short-term]~~ Special Event liquor permit is \$20.00 per day. ~~[Liquor-short-term]~~ Special Event liquor permit fees cannot be waived for any applicant and are non-refundable. ~~[Short-term]~~ Special Event liquor permit fees are in addition to ~~[short-term-business]~~ Special Event permit fees.

4. All liquor sold, served, or dispensed at a Special Event must be purchased from and invoiced from a State of Nevada licensed liquor wholesaler pursuant to NRS 369.487.

5. A Special Event liquor permit is not required in the following situations:

- a. Business or resident is serving, selling, or dispensing liquor within the footprint of their building or home as a complimentary service to their customers or guests and such limited right is not used to avoid complying with liquor license or related zoning requirements.
- b. A current liquor license holder serving, selling, or dispensing liquor within the footprint of the licensed parcel number or address of the business location.

Section XVII: Section 4.13.250 of the Carson City Municipal Code is hereby amended as follows:

4.13.250 - Approval of ~~[short-term]~~ a Special Event liquor permit.

1. The approval of a ~~[short-term]~~ Special Event liquor permit shall require the unanimous approval of the director, sheriff, planning director, city engineer, fire chief, risk manager, and health director and may impose such conditions upon the permit as deemed necessary and proper.

Section XVIII: Section 4.13.260 of the Carson City Municipal Code is hereby amended as follows:

4.13.260 - Denial—Remedy.

Any applicant for a ~~[short-term]~~ Special Event liquor permit who fails to obtain unanimous approval of the sheriff, planning director, fire chief, health director, city engineer, and risk 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]~~ Special Event liquor permit is denied, any fees paid will not be refunded.

SECTION XVIII:

No other provisions of Title 4 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____, 2011.

PROPOSED BY Supervisor _____

PASSED _____, 2011.

VOTE:

AYES:

NAYS:

ABSENT:

ROBERT L. 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 2011.