

BILL NO. 2765

INTRODUCED BY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 5.28 OF THE SPARKS MUNICIPAL CODE BY ADDING THERETO PROVISIONS ALLOWING SOME ALCOHOLIC BEVERAGE LICENSEES TO FILL GROWLERS AND CROWLERS; ALLOWING ALCOHOL SERVICE BY CATERERS; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF SPARKS DOES ORDAIN:

SECTION 1. Section 5.28.010, “Definitions,” is hereby amended as follows:

As used in this chapter, unless the context requires otherwise, the words and terms defined in this section shall have the meanings ascribed to them in this section.

- A. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process produced.
- B. “Alcoholic beverage” means any distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters, beer, wine and every liquid, semi-solid or solid containing alcohol capable of being consumed by a human being.
- C. “Bartender” means any person who:
 - 1. Opens a bottle, can or other container of alcoholic beverage for service to a patron in that container;
 - 2. Pours or otherwise transfers an alcoholic beverage from a tap, or from a bottle, can or other container, into different containers (such as glasses, ~~or~~ cups, growlers, or crowlers) for service to patrons; or
 - 3. Mixes alcoholic beverages with other alcoholic beverages or with nonalcoholic beverages for service to patrons.
- D. “Beer” means any fermented beverage of any name or description manufactured wholly or in part from malt, or from any substitute therefore, and includes such liquors as ale, beer, porter and stout.
- E. “Caterer” means any licensed purveyor of food or provisions for entertainment, special occasions, parties, and social gatherings where food is provided for consumption at a location or premises apart from the caterer’s kitchen or permanent place of business.

CHAPTER 5.28 – ALCOHOLIC BEVERAGES

- F. “Convicted” means a finding of guilt resulting from a plea of guilty, the decision of a court or magistrate or the verdict of a jury, irrespective of the pronouncement of judgment or the suspension thereof.
- GF. “Council” means the mayor and the members of the city council.
- H. “Crowler” means a can made of aluminum or other metal that can be mechanically sealed and used to transport up to 32 ounces of beer.
- IG. “Dining area” means a place which is regularly and in a bona fide manner used and kept open for the serving of food to patrons for compensation:
1. Which has suitable kitchen facilities connected therewith which are authorized by a permit issued by the Washoe County Health Department - District Board of Health; and
 2. In which alcoholic beverages and food prepared on the premises are served at separate tables or booths and are not served over a bar or counter; and
 3. In which alcoholic beverages and food prepared on the premises are served separately or in combination.
- JH. “Fraternal club” means an organization of persons which:
1. Keeps, conducts and maintains an establishment solely for bona fide fraternal, social, recreational, benevolent or athletic purposes, and not for pecuniary gain;
 2. Does not traffic in alcoholic beverages for profit;
 3. Dispenses alcoholic beverages to its members or bona fide guests only; and
 4. Does not maintain or possess a public bar or place for the sale of alcoholic beverages to the public.
- K. “Growler” means a glass, ceramic, plastic, or metal container or vessel with a resealable lid that is used to transport up to two (2) liters or 67.6 ounces of beer.
- LH. “Holder” means a person to whom a license has been issued pursuant to the provisions of this chapter.
- MJ. “Kitchen facilities” means commercial-grade kitchen items, including but not limited to, sinks, counters, ovens, griddles, grills, microwaves and dishwashers necessary to prepare and cook food served in a full-service restaurant.
- NK. “License” means a license issued pursuant to the provisions of this chapter.

CHAPTER 5.28 – ALCOHOLIC BEVERAGES

- OL. “Licensee” means any person to whom a license has been issued pursuant to the provisions of this chapter.
- PM. “Manufacturer-prepared alcoholic beverage” means an alcoholic beverage which is placed in a sealed container by the manufacturer, is labeled with its alcohol content by volume, and is served without alteration of the beverage in the container.
- QN. “Nudity” means:
1. The showing of the human female breast with less than a fully opaque covering of any portion of the areola and nipple;
 2. The showing of the human male or female genitals, pubic area, perineum, or anal area with less than a fully opaque covering of any portion thereof; or,
 3. The depiction of the human male genitals in a discernible turgid state, whether or not covered.
 4. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute a state of nudity, irrespective of whether the nipple of the mother’s breast is uncovered during or incidental to the breast feeding.
- RO. “Package” means any immediate container of an alcoholic beverage which is filled or packaged by the manufacturer or bottler thereof for sale by such manufacturer or bottler.
- SP. “Person” means an individual or individuals.
- TQ. “Premises” means any place connected with and accessible to a licensed business including any outdoor area which is dedicated for seasonal use as a cafe or bar and which is approved by the city pursuant to chapter 5.77 of this code.
- UR. “Retailer” means any person who sells at retail any alcoholic beverage.
- VS. “Retail sale” means a sale to a consumer or any other person for any purpose other than for resale.
- WT. “Sale” means any transfer, exchange or barter in any manner or by any means for a consideration, and includes soliciting or receiving an order for, keeping or exposing for sale, keeping with intention to sell, and delivery of, any alcoholic beverage in the city.
- XU. “Wholesaler” means any person who sells at wholesale only any alcoholic beverage.

CHAPTER 5.28 – ALCOHOLIC BEVERAGES

- YV. “Wholesale sale” means a sale to any person for purposes of resale.
- ZW. “Wine” includes “fruit juices” and means all alcoholic beverages which are obtained by the fermentation of the juice of grapes or other fruits or agricultural products and which do not contain more than 24 percent alcohol by volume.

SECTION 2. Section 5.28.115, “Growler license,” is hereby added as follows:

It is unlawful for any person, except for a holder of a manufacturer’s license, to sell beer in a growler or crowler without first obtaining a growler license. A growler license may only be obtained by a licensee permitted to sell beer at retail or for consumption on the premises pursuant to this Chapter. No additional background investigation is required to obtain a growler license. Beer sold in a growler or crowler may not be consumed on the premises unless the licensee is permitted to sell beer for consumption on the premises pursuant to this Chapter.

SECTION 3. Section 5.28.145, “Caterer’s alcoholic beverage license,” is hereby added as follows:

- A. Except as otherwise permitted by this Chapter, it shall be unlawful for any person to sell or serve any alcoholic beverage in the city without first obtaining a caterer’s alcoholic beverage license. The caterer’s alcoholic beverage license shall be in addition to any other alcoholic beverage license required by this Chapter.
- B. If an applicant for a caterer’s alcoholic beverage license is not the holder of any other alcoholic beverage license under this Chapter, a background investigation is required to obtain a caterer’s alcoholic beverage license pursuant to Section 5.12.015. If an applicant for a caterer’s alcoholic beverage is the holder of another alcoholic beverage license under this Chapter, no additional background investigation is required to obtain a caterer’s alcoholic beverage license.
- C. Caterers or other suppliers of alcoholic beverages whose principal place of business is outside the city shall obtain all licenses required by this Title and any other law, ordinance, or regulation if serving food and/or alcoholic beverages at a location within the city.
- D. Any bartender serving alcoholic beverages pursuant to a caterer’s alcoholic beverage license shall obtain a bartender’s work permit pursuant to Section 5.28.240.
- E. A caterer’s alcoholic beverage license allows the sale, service, and consumption of alcoholic beverages in conjunction with food at the same location as the entertainment, special occasion, party, or social gathering that the caterer is serving. A caterer’s alcoholic beverage license does not allow the sale, service, or consumption of alcoholic beverages from a mobile food vending vehicle or

CHAPTER 5.28 – ALCOHOLIC BEVERAGES

unit. At catered events, the holder of a caterer’s alcoholic beverage license may exercise only those privileges authorized by the license and shall comply with all ordinances and provisions of the Code pertaining to the conduct of on-premises alcoholic beverage sales. Violation of any such provisions may be grounds for suspension or revocation of the caterer’s alcoholic beverage license and any other license held by the caterer pursuant to this Title.

SECTION 4. Section 5.28.380, “License fees,” is hereby amended as follows:

- A. Alcoholic beverage license fees shall be at the annual rate specified in this section, except where the fee period is specified otherwise:
1. Alcoholic beverage manufacturer license \$1,000.00
 2. Alcoholic beverage wholesaler license 1,000.00
 3. Alcoholic beverage delivery license 800.00
 4. Alcoholic beverage package license, plus an additional one dollar for each thousand dollars of gross receipts over twenty-five thousand dollars 700.00
 5. Fraternal club alcoholic beverage license 400.00
 6. On-premises alcoholic beverage license, plus an additional one dollar for each thousand dollars of gross receipts over fifty thousand dollars 1,000.00
 7. Cabaret license, plus an additional one dollar for each thousand dollars of gross receipts over fifty thousand dollars 1,300.00
 8. Beer cabaret license 600.00
 9. Dining room wine and beer license, plus an additional one dollar for each thousand dollars of gross receipts over twenty-five thousand dollars 500.00
 10. Beer wholesale license 500.00
 11. Beer package license, plus an additional one dollar for each thousand dollars of gross receipts over twenty-five thousand dollars 300.00
 12. Fraternal club beer license 200.00
 13. On-premises beer license, plus an additional one dollar for each thousand dollars of gross receipts over twenty-five thousand dollars 400.00

CHAPTER 5.28 – ALCOHOLIC BEVERAGES

14. Beer distribution license 500.00
 15. Incidental beer and wine package license 350.00
 16. Growler license 500.00
 17. Caterer's alcoholic beverage license, if applicant holds another alcoholic beverage license 500.00
 18. Caterer's alcoholic beverage license, if applicant does not hold another alcoholic beverage license 1,000.00
 19. Special event license (per event) 40.00
- B. Except for a special event license, the licensing year for alcoholic beverage licenses shall commence on July 1st and end on June 30th of each year.
- C. The annual base fee shall be paid in advance and any licensee issued a license after July 1st of a licensing year shall pay in advance an annual base fee prorated to June 30th of said licensing year.
- D. Any license fees which are calculated from gross receipts earned during a licensing year shall be paid at the end of said licensing year, except such fees shall become immediately due and payable on the date a licensee ceases conducting the alcoholic beverage business for which he was licensed under this chapter.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law.

SECTION 7. This ordinance shall become effective upon passage, approval and publication.

SECTION 8. The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.

CHAPTER 5.28 – ALCOHOLIC BEVERAGES

SECTION 9. If any subsection, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

PASSED AND ADOPTED this ____ day of _____, 20____, by the following vote of the City Council:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

APPROVED this ____ day of _____, 20____, by:

RONALD E. SMITH, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

LISA HUNDERMAN, City Clerk

CHESTER H. ADAMS, City Attorney