

STAFF REPORT

Date: February 12, 2020

To: Mayor and City Council

Thru: Sabra Newby, City Manager

Subject: **D.1.3. Staff Report (For Possible Action): Ordinance Introduction - Bill No. _____ Ordinance to amend Title 5 of the Reno Municipal Code entitled “Privileged Licenses, Permits and Franchises,” by amending Chapter 5.05, entitled "Licenses Generally", Section 5.05.008 entitled “General Requirements”, to add Massage Establishments to the list of business licenses required to obtain a Federal Bureau of Investigation (FBI) nationwide background check; together with matters which pertain to or are necessarily connected thereto.**

From: Michael Chaump, Business Relations Manager

Recommendation: Staff recommends Council refer Bill No. _____ for a second reading and adoption.

Proposed Motion: I move to refer Bill No. _____ for a second reading and adoption.

EXPLANATION: Matter underlined is new; matter in brackets and stricken [--] is material to be repealed.

BILL NO.

ORDINANCE NO.

ORDINANCE TO AMEND TITLE 5 OF THE RENO MUNICIPAL CODE ENTITLED "PRIVILEGED LICENSES, PERMITS AND FRANCHISES," BY AMENDING CHAPTER 5.05, ENTITLED "LICENSES GENERALLY", SECTION 5.05.008 ENTITLED "GENERAL REQUIREMENTS", TO ADD MASSAGE ESTABLISHMENTS TO THE LIST OF BUSINESS LICENSES REQUIRED TO OBTAIN A FEDERAL BUREAU OF INVESTIGATION (FBI) NATIONWIDE BACKGROUND CHECK; TOGETHER WITH MATTERS WHICH PERTAIN TO OR ARE NECESSARILY CONNECTED THERETO.

SPONSORED BY: COMMUNITY DEVELOPMENT; BUSINESS LICENSE DIVISION

THE CITY COUNCIL OF THE CITY OF RENO DOES ORDAIN:

SECTION 1. Title 5, Chapter 5.05, §§ 5.05.008, inclusive, of the Reno Municipal Code is hereby modified to read as follows:

Sec. 5.05.008. - General requirements.

- (a) Every person submitting an application for a privileged business license specified in subsection (f) below is subject to a background investigation to determine suitability for the license, including an FBI fingerprint-based investigation prior to the issuance of any license. An interim license may be issued as specified in subsection (h) below.

A background investigation conducted by the city may be considered valid for 24 months as it relates to the requirements of this chapter unless otherwise set forth herein. If an applicant has received a privileged license pursuant to this chapter and, within 24 months, subsequently submits another application for a privileged license, then the city reserves the right to conduct a criminal case record check of local criminal justice agencies to confirm that the applicant has not been arrested or convicted for any offense that would preclude them from passing any complete fingerprint based background investigation.

- (b) No business license may be issued until the prescribed license fee, and any fingerprint and investigation fees, have been paid to the city.
- (c) An applicant for a business license specified in subsection (f) below shall submit all information required for a background check to the police department.

- (d) Pursuant to NRS 239B.010(1)(a) and P.L. 92-544, the police department is authorized to submit the fingerprints of an applicant for a business license specified in subsection (f) below, plus any required fees and any information required for the background check, to the Central Repository for Nevada Records of Criminal History for a statewide background check and for submission by the Central Repository to the FBI to obtain the FBI nationwide background check of the applicant. The Nevada Department of Public Safety is hereby authorized to exchange such fingerprint data with the FBI for purposes of the background check.
- (e) Failure of an applicant for a business license set forth in subsection (f) below to submit to fingerprinting or to provide information required by this section is grounds for denial of the application.
- (f) An applicant for any of the following business licenses shall comply with the provisions of this section and any other FBI or police department requirements necessary to obtain a FBI nationwide background check:
 - (1) Alcohol service and sales (RMC Chapter 5.07);
 - (2) Pawnbrokers and secondhand dealers (RMC Chapter 5.08);
 - (3) Auctions and auctioneers (RMC Chapter 5.09);
 - (4) Escort and outcall services (RMC Chapter 5.10);
 - (5) Peddlers, solicitors and temporary merchants (RMC Chapter 5.12);
 - (6) Sidewalk vendors (RMC Chapter 5.15);
 - (7) Towing and booting companies (RMC Chapter 5.16);
 - (8) Vehicles for hire (RMC Chapter 5.17); [~~and~~]
 - (9) Tobacco paraphernalia retailers (RMC Chapter 5.19); and
 - (10) Massage establishments (RMC Chapter 5.23).
- (g) A business license application will be considered properly completed upon submission of all required application materials and information, including payment of all required application and investigation fees. Thereafter, and prior to issuance of a license, review and approval will be obtained from all appropriate agencies which may include, but are not necessarily limited to, building, planning, fire, police, environmental control, city council and relevant district, county and state agencies.
- (h) Thirty days after a properly completed application for a privileged license has been submitted, the applicant may obtain an interim privileged license under the following circumstances:
 - (1) All agency approvals have been obtained except for police;

- (2) The police department background investigation, or criminal case record check of local criminal justice agencies (for privileged license holder having completed a complete background investigation as set forth in (a) above), has not been completed and approval not obtained;
 - (3) The applicant executes an interim privileged license declaration form;
 - (4) The applicant acknowledges the background investigation delay and stipulates that if the license is ultimately denied, business activity shall immediately cease upon receiving the denial notice.
 - (5) Appropriate conditions or limitations effective during the interim period may be imposed and the applicant shall hold the city harmless from any damages or claims arising out of its operation pursuant to the interim license.
- (i) Any licensee who seeks an additional license for an additional business location is not subject to the 30-day wait for an interim license, if the present business location is being operated in accordance with the requirements of the Reno Municipal Code and has no history of violations.
- (j) The police department shall, upon completion of the background investigation, recommend approval or denial of the application and forward its recommendation to the city license office. If an applicant is denied a license after investigation, the investigation fees shall not be returned to the applicant. The recommendation for denial of an application must be based upon good cause which includes but is not limited to:
- (1) The application is incomplete or contains false, misleading or fraudulent statements.
 - (2) The applicant fails to satisfy any qualification or requirement imposed by this title, local, state or federal law, regulation or administrative policy pertaining to such activities.
 - (3) The applicant has been subject, in any jurisdiction, to administrative action of any kind imposing fines or other discipline relating to the operation of a business licensed in the jurisdiction, or denied a license or work card, due to suitability issues.
 - (4) The applicant has engaged in deceptive practices upon the public.
 - (5) The applicant has, within the five years immediately preceding the date of the application, been convicted of any of the following criminal offenses, regardless of the jurisdiction of the conviction:
 - a. A felony or any crime which, under the laws of this state, would amount to a felony;
 - b. Any crime of which theft, fraud or intent to defraud is an element;
 - c. Unlawfully possessing or distributing a controlled substance;
 - d. Solicitation, prostitution, or pandering; or

- e. Any sex offense requiring the applicant to register under NRS 179D.441 to 179D.470, if the applicant has been classified by the state as a Tier 1 or below.
- (6) A person who, within the ten years immediately preceding the date of the application, has been convicted of any sex offense requiring the applicant to register under NRS 179D.441 to 179D.470, if the applicant has been classified by the state as a Tier 2 or Tier 3 offender.
- (7) Any cause reasonably related to furtherance of the public welfare.
- (k) License applications for gaming, liquor, medical marijuana establishments, marijuana establishments, pawnbroker, secondhand merchandise, and escort services must be approved by the city council.
- (l) The holder of a privileged license is, and shall be, liable for any and all acts of his or her employees, while acting within the scope of their employment, and for any violation by them of any of the provisions of title 4 and title 5.
- (m) If employees of a privileged business are required to obtain work cards through the Reno Police Department, the holder of the privileged license has a duty to immediately notify the city if any employee having a work card has been convicted of an offense that would disqualify the employee from being issued a work card under RMC section 5.05.011(e). This duty applies if the holder of the privileged license knows or reasonably should know of the conviction.

SECTION 2. The Reno City Council hereby finds that this ordinance is subject to the requirements of NRS Chapter 237, Business Impact Statement process.

SECTION 3. This Ordinance shall be in effect after its passage, adoption and publication in one issue of a newspaper printed and published in the City of Reno.

SECTION 4. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid.

SECTION 5. The City Clerk and Clerk of the City Council of the City of Reno is hereby authorized and directed to have this Ordinance published in one issue of the Reno-Gazette Journal, a newspaper printed and published in the City of Reno.

PASSED AND ADOPTED this _____ day of _____, 2020, by the following vote of the Council:

AYES: _____

NAYS: _____

ABSTAIN: _____ ABSENT: _____

APPROVED this _____ day of _____, 2020.

MAYOR OF THE CITY OF RENO

ATTEST:

CITY CLERK AND CLERK OF THE CITY COUNCIL
OF THE CITY OF RENO, NEVADA

EFFECTIVE DATE: