

EXPLANATION: Matter underlined is new. Matter in brackets [] is material to be omitted.

BILL NO. 2715

ORDINANCE NO. 2533

AN ORDINANCE TO AMEND SPARKS MUNICIPAL CODE TITLE 5
“BUSINESS LICENSES, TAXES AND REGULATIONS,” CHAPTER 5.24
“GAMBLING ESTABLISHMENTS” TO ADD DEFINITIONS AND CREATE
THE REQUIREMENTS OF BARS OR BAR-RESTAURANTS OPERATING
SLOT MACHINES THROUGH A RESTRICTED GAMING LICENSE,
TOGETHER WITH OTHER MATTERS PROPERLY RELATED THERETO.

SPONSORED BY: SPARKS CITY COUNCIL

THE CITY COUNCIL OF THE CITY OF SPARKS DO ORDAIN:

SECTION 1. Chapter 5.24 of the Sparks Municipal Code is hereby amended by adding certain definitions to Title 5, Chapter 5.24, the same to read as follows:

CHAPTER 5.24. – GAMBLING ESTABLISHMENTS

Sec. 5.24.010. – Definitions.

As used in this chapter, the words and terms defined in this section shall have the meanings ascribed to them in this section unless the context clearly requires otherwise. Any word or term not defined in this section which appears in the regulation shall have the definition ascribed by the Nevada Gaming Control Act and statutes ancillary thereto, and as defined by the regulations of the Nevada Gaming Commission unless a different meaning clearly appears in the context.

B. Bar, for purposes of this Chapter, means a bar, tavern or saloon type establishment which is primarily engaged in selling or serving alcoholic beverages at retail by the drink to the general public for on premises consumption, with the ability to request approval for the following ancillary activities; live entertainment, food service, and restricted gaming. The conduct of a bar business necessarily includes operation under a valid on-premises alcoholic beverage license and/or on premises alcohol cabaret license. A restaurant may be operated on the same premises as a bar. See bar-restaurant definition in this section. Except as otherwise provided in this Section, a bar that holds a restricted gaming license as an ancillary activity to a bar business is not eligible to apply for, hold or renew an alcoholic beverage package license that allows the holder to sell alcoholic beverages in packages for consumption outside the bar. A bar that holds a state “supplier’s license” as defined in NRS 369.111 or operates a “brew pub” pursuant to NRS 597.230 is eligible to apply for, hold or renew an alcoholic beverage packaged liquor license that allows the holder to sell alcoholic beverages in packages for consumption outside the bar.

C. *Bar-restaurant* for purposes of this Chapter, means a Restaurant as defined in Section 5.77.020 of the SMC that operates as both a bar and a restaurant under the definitions in this section. Minors may be allowed in the restaurant provided there is separation between the bar and/or lounge area and the restaurant area by a structural barrier sufficient to exclude minors from the bar and/or lounge area, and provided that no alcohol sales, consumption, or distribution occur in an area not licensed for alcohol sales or under the control of the licensee. Alcoholic beverages may be served to all patrons aged twenty-one and older throughout the premises, except that any person twenty-one and older accompanying a minor in the restaurant portion of the business may be served alcohol only in conjunction with meals at tables or booths. Except as otherwise provided in this Section, a bar-restaurant that holds a restricted gaming license as an ancillary activity to a bar-restaurant business is not eligible to apply for, hold or renew an alcoholic beverage package license that allows the holder to sell alcoholic beverages in packages for consumption outside the bar or bar-restaurant. A bar-restaurant that holds a state “supplier’s license” as defined in NRS 369.111 or operates a “brew pub” pursuant to NRS 597.230 is eligible to apply for, hold or renew an alcoholic beverage packaged liquor license that allows the holder to sell alcoholic beverages in packages for consumption outside the bar-restaurant.

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

E. *Bartop machine* means a slot machine which is installed into the flat horizontal counter of a “bartop,” as defined in this section and for which the bartop is the cabinetry of the slot machine. Unless a different height is required for some of the bartop machines to comply with the Americans with Disabilities Act of 1990, as amended, or other applicable law, the screen of the bartop machine shall be at a minimum height of forty inches, from the bottom of the bartop, on the patron's side of the bartop. A bartop machine shall not be capable of operating except when installed into a “bartop” and any slot machine commonly referred to as “stand-up” or “slant-top” slot machine shall not qualify as a bartop machine.

K. *Grandfathered Bar or Grandfathered Bar-Restaurant*, means a bar or a bar-restaurant business that holds a valid business license for restricted gaming with fifteen (15) or fewer slot machines; the application for a restricted gaming license or a business license for restricted gaming for which was pending or approved prior to the effective date of this Ordinance. Except as otherwise provided herein, a bar or a bar-restaurant that has been determined to be a grandfathered bar or grandfathered bar-restaurant pursuant to the foregoing provision because its application for a restricted gaming license or a business license for restricted gaming was pending or approved prior to the effective date of this Ordinance, shall be considered to be a primary or principal commercial use of a restricted gaming operation to which the operation of fifteen (15) or fewer slot machines shall be presumed to be incidental or ancillary as long as it continues to be a grandfathered bar or grandfathered bar-restaurant.

P. *Restricted Gaming* means a gaming operation consisting of the operation of 15 or fewer slot machines, and no other gaming devices or gambling games, when the slot machines are operated as incidental or ancillary to the business of the primary or principal commercial use. A restricted gaming operation is authorized to operate by the Nevada Gaming Commission under the terms of a restricted license, as defined by NRS 463.0189.

Q. *Slot Machine* means that as defined by NRS 463.0191.

SECTION 2. Chapter 5.24 of the Sparks Municipal Code is hereby amended by adding the following language, the same to read as follows:

Sec. 5.24.055. – Operation of Bar or Bar-Restaurant with Restricted Gaming.

The following shall apply to the licensing of bars with restricted gaming and bar-restaurants with restricted gaming:

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

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

C.

i. Submission of Diagram. Each bar licensee, including a grandfathered bar, a grandfathered bar-restaurant, new bar or new bar-restaurant that operates slot machines on the premises pursuant to a restricted gaming license shall submit to the City Manager or his designee a diagram of its premises, on an 8-1/2" by 11" sheet of paper, depicting the configuration of the bartop with the licensee's application for business license or annual application for business license renewal. The diagram shall depict, if applicable, the location of all slot machines, including bartop machines and other slot machines, and the location of the restaurant and kitchen, if applicable. The

accuracy of the submitted diagram is subject to verification by the City Manager or his designee. The City Manager or his designee shall review the submitted diagram to determine whether (1) in the case of a grandfathered bar or grandfathered bar-restaurant, the premises is being operated as a grandfathered bar or grandfathered bar-restaurant, or (2) in the case of a bar or bar-restaurant, the premises is being operated in compliance with subsection (A) above. In the event a grandfathered bar or grandfathered bar-restaurant is not operating as a grandfathered bar or grandfathered bar-restaurant, the bar or bar-restaurant is no longer a grandfathered bar or grandfathered bar-restaurant shall reduce the number of slot machines in operation to seven (7) within thirty (30) days after notice from the city. In the event a bar or bar-restaurant is not operating in compliance with subsection (A) above, the bar or bar-restaurant shall reduce the number of slot machines in operation to seven (7) within thirty (30) days after notice from the City.

ii. Submission of Annual Report. Unless a bar with restricted gaming is a grandfathered bar or a bar-restaurant with restricted gaming is a grandfathered bar-restaurant, each bar licensee operating more than seven (7) slot machines shall file a yearly report with the City Manager or his designee setting forth its compliance with subsection (A) above, on forms prescribed by the City and signed by the licensee certifying the accuracy of the report. Each report shall be for a 12 month period beginning January 1 and concluding with December 31 of that year. The report shall be filed no later than twenty (20) business days following the end of each reporting period. Failure to timely file the report, or filing a misleading or false report, may result in disciplinary action, up to and including revocation of the licensee's restricted gaming license. If any licensee reports noncompliance with subsection (A) above, it shall remove all but seven (7) of the slot machines from the premises.

D. A bar or a bar-restaurant that, upon licensing and thereafter, continues to meet the bartop and bartop machine criteria set forth in subsection (A) above shall be considered to be a primary business, to which the operation of fifteen or fewer slot machines shall be presumed to be incidental or ancillary to the primary business.

E. The City Manager or his designee may conduct an annual audit of each bar with restricted gaming and each bar-restaurant with restricted gaming that operates in excess of seven (7) slot machines in conjunction with the operation of the bar. If the results of the audit establish a violation of this section, the number of slot machines operated by such licensee shall be reduced to seven (7) slot machines within thirty (30) days after notice from the [Business License Department] of non-compliance with subsection (A) above. After such a reduction in slot machines has been in effect for at least one year, the licensee may reapply for additional bartop machines but must comply with bartop and bartop machine requirements set forth in this Ordinance. If the next annual audit does not establish compliance with the bartop and bartop machine requirements, the licensee will again be reduced to the operation of seven (7) slot machines and will not eligible for re-application for a three-year period.

SECTION 3. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

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SECTION 4. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Sparks Municipal Code in conflict herewith are hereby repealed.

SECTION 5. This ordinance shall be in effect from and after its passage, adoption and publication in one issue of a newspaper printed and published in the City of Sparks.

SECTION 6. The City Clerk and Clerk of the City Council of the City of Sparks 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 Sparks.

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:

GENO MARTINI, Mayor

ATTEST:

TERESA GARDNER, City Clerk

**APPROVED AS TO FORM AND
LEGALITY:**

CHESTER H. ADAMS, City Attorney