

SUMMARY: An ordinance amending Title 3, Chapter 5, Section 13 of the Ely City Code requiring gaming license applicants who intend to operate 16 or more slot machines to have a restaurant and bar and/or at least 30 hotel rooms; applicants who intend to operate 40 or more slot machines must have at least 30 hotel rooms.

TITLE:

PROPOSED ORDINANCE AMENDING TITLE 3, CHAPTER 5, SECTION 13 OF THE ELY CITY CODE TO REQUIRE GAMING LICENSE APPLICANTS WHO INTEND TO OPERATE 16 OR MORE SLOT MACHINES TO HAVE A RESTAURANT AND BAR OR AT LEAST 30 HOTEL ROOMS; AND PROVIDING OTHER MATTERS RELATING THERETO.

- WHEREAS,** NRS 268.001 establishes the City’s authority to regulate matters of local concern;
- WHEREAS,** NRS 266.105 empowers the Ely City Council to pass ordinances necessary for the municipal government and the management of the affairs of the City, for the execution of all powers vested in the City, and for making effective the provisions of Chapter 266 of the Nevada Revised Statutes;
- WHEREAS,** NRS 266.355 grants the City the authority to set by Ordinances regulations for the issuance of licenses to applicants in City of Ely;
- WHEREAS,** NRS 463.190 is a specific grant of authority for the City to establish the requirements for obtaining a city gaming license;
- WHEREAS,** it is an appropriate exercise of the licensing power to require restaurant, bars, and hotel rooms for non-restricted gaming establishments (see e.g., per NRS 463.1605 and NRS 463.01865); and
- THEREFORE,** pursuant to the above and in the best interest of the citizens of Ely, the City Council of the City of Ely, State of Nevada, does hereby amend, adopt and otherwise ordain the following to Title 3, Chapter 5, Section 13 of the Ely City Code:

TITLE 3
BUSINESS AND LICENSE REGULATIONS
CHAPTER 5
GAMBLING

3-5-12: LICENSE APPLICATION:

A. Every person, firm, association of persons or corporation desiring to engage in the offer or conduct of entertainment by gambling game or gaming in the City shall make an application to the City Clerk/City Administrator for a license in such form as prescribed by the board.

B. The applicant must furnish a complete description of the premises in which the applicant desires to carry on or conduct the slot machine, device or game, together with the location of the building, its street number, if any, and any other information by which it may be definitely and readily located and recognized.

C. The applicant must state definitely the particular type of slot machine or the particular game or device [and the number of games or devices](#) which the applicant desires to carry on or conduct in the room and/or premises.

[D. If the applicant intends to operate more than 16 slot machines, the applicant must provide the name of the restaurant and bar, their respective patron capacities, and the type of restaurant, if applicable, and/or the name of the hotel and the number of hotel rooms, if applicable.](#)

E. The application must be fully completed, and all required supplemental documents and information must be submitted with the application. No application shall be deemed to have been filed until such time as it is complete in all respects, and the board may reject for filing any application not completed on its face.

F. The applicant or, if the applicant is a nonnatural person, its authorized signatory, must sign and verify under penalty of perjury the application and any waivers or releases requested. (Ord. 702, 4-13-2017)

3-5-13: ACTION ON APPLICATION:

F. The board may refuse to grant a license to any applicant, even if the State of Nevada has issued a gaming license to the applicant:

1. Who, within the last ten (10) years, has been convicted of any felony, any crime of moral turpitude, or any crime of sexual assault or violence; or whoever has been convicted of any crime connected to gaming or gambling games;

2. Who is financially insolvent or who has undergone a prior bankruptcy proceeding filed by or against him, her or it that resulted in creditors receiving less than the total amount of money owed them;

3. Who has a history of financial instability;

4. Whose stated financial condition is inadequate or insufficient to offer or conduct entertainment by gambling game or gaming;

5. Who makes any untrue statement of a material fact in any application, notice, statement or report filed with the board in compliance with the provisions of this chapter, or willfully omits to state in any such application, notice, statement or report any material fact which is required to be stated therein, or omits to state a material fact necessary to make the facts stated in view of the circumstances under which they were stated, not misleading;

6. Who has any financial interest in, or connection with any business which is illegal where such business is located;

7. Whose license location under the provisions of this chapter would be contrary to the health, safety, morals or general welfare of the residents of the City;

8. Who is under twenty one (21) years of age at the time of application;

9. Whose gaming license issued under this chapter, or in any other jurisdiction, was revoked for cause;

10. Who, at the time of application for renewal of any license issued under this chapter, would not be eligible for such license upon first application;

11. A corporation, unless it is incorporated in Nevada, or unless it is a foreign corporation which is qualified under Nevada law to transact business in the State; or

~~—12. Who intends to operate sixteen (16) or more slot machines or any number of slot machines together with any other game, gaming device, race book or sports pool at one (1) establishment, unless that establishment also offers for rent accommodations of at least:~~

~~—a. Combined fifty (50) hotel or motel rooms.~~

~~—b. A block of hotel or motel rooms in an establishment can only support one (1) application for a gaming license. If the owner/operator of the hotel or motel is different from the applicant for the gaming license then the association must be formalized through a written agreement and provided with the license application.~~

12. Who is found to be unsuitable for any other material reason, provided that reason is declared by the board on the record during the consideration of the application.

~~G. No person, firm, association, corporation, partnership, limited partnership or limited liability company currently holding a nonrestricted gaming license and operating sixteen (16) or more slot machines or any number of slot machines together with any other game, gaming device, race book or sports pool at one (1) establishment in the City on January 1, 2017, shall be required to comply with subsection F12 of this section for purposes of continuing to offer gaming at that establishment; nor shall any applicant whose complete application (including all applicable fees) for a nonrestricted gaming license that has been filed with the State and the City on or before January 1, 2017, be subject to the requirements of subsection F12 of this section at the establishment or location specified in that application, provided that such applicant thereafter diligently, and without undue delay, takes and/or completes all steps necessary to obtain both the State and the City licenses.~~

~~—H. An otherwise suitable applicant for a nonrestricted gaming license shall not be denied such license for failure to comply with subsection F12 of this section, when said applicant is seeking licensure or licensure renewal for any gaming establishment or location in the City of Ely, as of January 1, 2017, and was licensed for nonrestricted gaming, and at which a properly licensed licensee was operating sixteen (16) or more slot machines or any number of slot machines together with any other game, gaming device, race book or sports pool; provided, however, that if any such previously licensed establishment or location is not licensed by the State for~~

~~nonrestricted gaming for more than one (1) consecutive year, any applicant for a City gaming license who has not submitted to the State Gaming Control Board a fully completed application for a nonrestricted gaming license for that establishment or location, on or before the expiration of that one (1) year period, shall be required to comply with subsection F12 of this section. (Ord. 702, 4-13-2017)~~

G. The board shall refuse to grant a license to any applicant, even if the State of Nevada has issued a gaming license to the applicant:

1. Who intends to operate sixteen (16) or more slot machines or any number of slot machines together with any other game, gaming device, race book or sports pool at one (1) establishment, unless that establishment also offers the following services that are maintained and held out to the public:

- a. At least one (1) bar with permanent seating capacity for more than twenty (20) patrons that serves alcoholic beverages sold by the drink for consumption on the premises; and
- b. At least one (1) restaurant with permanent seating capacity for more than forty (40) patrons that is open to the public twelve (12) hours each day and at least 6 days each week; or
- c. At least thirty (30) hotel or motel rooms for sleeping accommodations.

2. Who intends to operate forty (40) or more slot machines or any number of slot machines together with any other game, gaming device, race book or sports pool at one (1) establishment, unless that establishment also offers:

- a. At least thirty (30) hotel or motel rooms available for sleeping accommodations that are maintained and held out to the public.

H. Sections G(1)-(2) of this Chapter do not apply to any gaming establishments who currently hold a nonrestricted gaming license if the nonrestricted gaming establishment existed and operated in the city before January 1, 2017, unless the nonrestricted operation ceases at the establishment for a period exceeding three (3) years.

I. A block of hotel or motel rooms in an establishment can only support one (1) application for a gaming license. If the owner/operator of the hotel or motel is different from the applicant for the gaming license then the association must be formalized through a written agreement and provided with the license application.

J. Gaming license applicants shall not operate more than one gaming establishment with less than sixteen (16) slot machines in a single or contiguous location in order to bypass compliance with the provisions herein.

Severability. If any section, paragraph, clause or provision of this ordinance shall be held to be invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Effective Date. This ordinance shall become effective on _____.

Proposing Party. The foregoing ordinance was proposed by Councilman Trask at the regular meeting of the Ely City Council on June 22, 2023, read by title and summary and referred to the City Council of the City of Ely as a committee of the whole.

Notice. Notice of filing of such ordinance was duly given by publication as required by law. It was read in full at the regular meeting on _____ and adopted by the following vote:

VOTE:	AYES	_____
	NAYES	_____
	ABSENT	_____

PASSED on the ____ day of _____ 2023.

APPROVED:

ATTESTED TO BY:

NATHAN ROBERTSON, MAYOR

JENNIFER LEE, CITY CLERK