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BILL NO. 2-1-22-3

SUMMARY – An ordinance to amend Clark County Code Title 8, Chapter 8.20, to allow restaurants, category 2 restaurants, retail beer licensees, retail beer and wine licensees, retail wine licensees, specialty drink licensees and supper clubs to have a drive-thru and/or walk-up window with a liquor license under certain conditions; and providing for other matters properly related thereto.

ORDINANCE NO. _____

(of Clark County, Nevada)

AN ORDINANCE TO AMEND CLARK COUNTY CODE TITLE 8, CHAPTER 8.20, TO ALLOW RESTAURANTS, CATEGORY 2 RESTAURANTS, RETAIL BEER LICENSEES, RETAIL BEER AND WINE LICENSEES, RETAIL WINE LICENSEES, SPECIALTY DRINK LICENSEES AND SUPPER CLUBS TO HAVE A DRIVE-THRU AND/OR WALK-UP WINDOW WITH A LIQUOR LICENSE UNDER CERTAIN CONDITIONS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. Title 8, Chapter 8.20, Subsection 8.20.020.310 of the Clark County Code is hereby amended to read as follows:

8.20.020.310 Restaurant.

"Restaurant" means a space in a suitable building kept, used, maintained, advertised or held out to be a public place where hot, complete meals are prepared and cooked on the premises, ordered from and served by waiters or waitresses to tables or booths providing a seating capacity for at

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least fifty persons in a room separate from the kitchen. All meals shall be selected and ordered by the customer from tables or booths and from a prepared menu at a stipulated price. If the restaurant allows admittance of minors and is operated in conjunction with a tavern, the dining room shall be divided and separated from the bar and/or lounge area by a structural barrier sufficient to exclude minors from the bar-lounge area. If the restaurant does not allow the admittance of minors, no physical separation of the restaurant from the bar/lounge is required, but a sign must be posted at the entrance to the business which states that the entrance of minors is prohibited. The stools at the bar, or seats in a lounge or outside dining area, are not included as restaurant seating. Any restaurant having a drive-thru/walk-up window does not qualify for a liquor license, except as provided in Sections 8.20.312 and 8.20.313 of the Code.

SECTION TWO. Title 8, Chapter 8.20, Subsection 8.20.020.315 of the Clark County Code is hereby amended to read as follows:

8.20.020.315 Restaurant (category 2).

"Restaurant (category 2)" means a space in a suitable building kept, used, maintained, advertised or held out to be a public place where meals are prepared or cooked on the premises and may be ordered from and served by waiters or waitresses in a room separate from the kitchen or food preparation area. The restaurant must have a seating capacity for at least twelve persons at tables, booths, or a counter. Any category 2 restaurant having a drive-thru/walk-up window does not qualify for a liquor license, except as provided in Sections 8.20.312 and 8.20.313 of the Code.

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SECTION THREE. Title 8, Chapter 8.20, Subsection 8.20.020.320 of the Clark County

Code is hereby amended to read as follows:

8.20.020.320 Retail beer license.

(a) A "retail beer license" permits the sale of beer in open containers for consumption on the licensed premises only, unless otherwise permitted in this section. Retail beer service is permitted in a billiard parlor, a restaurant and category 2 restaurant~~[, unless there is a drive-thru or walk-up window]~~. No retail beer license shall be issued to any location having a drive-thru or walk-up window, except as provided in Sections 8.20.312 and 8.20.313 of the Code.

(b) Tavern licensees, supper club licensees, resort hotel licensees, and main bar licensees may also obtain retail bar licenses for the sole purpose of selling beer away from a physical bar. The licensee must however obtain a separate license for each location where beer is being sold.

(c) A retail beer license shall not be issued in conjunction with a service bar license at the same licensed premises, except to resort hotel licensees. However, the license of a licensee who was granted a retail beer license and a service bar license prior to June 1, 1997, at the same licensed premises may be renewed if the location does not remain without that combination of licenses for a period of six consecutive months.

SECTION FOUR. Title 8, Chapter 8.20, Subsection 8.20.020.325 of the Clark County

Code is hereby amended to read as follows:

8.20.020.325 Retail beer and wine license.

(a) A "retail beer and wine license" permits the sale of beer and wine in open containers for consumption on the licensed premises only, unless otherwise permitted in this section.

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- (b) Retail beer and wine service is permitted in a billiard parlor, a karaoke club, wine cellar business, a restaurant and a category 2 restaurant~~[, unless there is a drive-thru or walk-up window]~~, or in a hospital where service of beer or wine is complimentary and in conjunction with the birth of a child or other similar special event. No retail beer and wine license shall be issued to any location having a drive-thru or walk-up window, except as provided in Sections 8.20.312 and 8.20.313 of the Code.
- (c) A retail beer and wine license shall not be issued in conjunction with a service bar license at the same licensed premises, except to resort hotel licensees. However, the license of a licensee who was granted a retail beer and wine license and a service bar license prior to June 1, 1997, at the same licensed premises, may be renewed if the location does not remain without that combination of licenses for a period of six consecutive months.

SECTION FIVE. Title 8, Chapter 8.20, Subsection 8.20.020.335 of the Clark County Code is hereby amended to read as follows:

8.20.020.335 Retail wine license.

A "retail wine license" permits the sale of wine in open containers for consumption only on the licensed premises unless otherwise permitted in this section. Retail wine service is permitted in a billiard parlor, a restaurant and category 2 restaurant~~[, unless the locations have a drive-thru or walk-up window]~~. No retail wine license shall be issued to any location having a drive-thru or walk-up window, except as provided in Sections 8.20.312 and 8.20.313 of the Code. A retail wine license shall not be issued in conjunction with a service bar license at the same licensed premises, except to resort hotel licensees.

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SECTION SIX. Title 8, Chapter 8.20, Subsection 8.20.020.365 of the Clark County Code is hereby amended to read as follows:

8.20.020.365 Specialty drink license.

A "specialty drink license" permits the sale of a singular variety of an alcoholic specialty drink in open containers for consumption only on the licensed premise of a restaurant or category 2 restaurant unless otherwise permitted in this section. No specialty drink license shall be issued to any location having a drive-thru or walk-up window, except as provided in Sections 8.20.312 and 8.20.313 of the Code. For the purpose of this section, a specialty drink is defined as a themed drink representing the culture of the ethnicity of the establishment and must be consistent with the ambiance, decor, and menu offerings of the restaurant. Specialty drinks may only be available for consumption when the kitchen or food preparation area is open and operating, and prepared food is ordered and served to the customer. A specialty drink license may be issued in conjunction with a retail beer, retail wine, or retail beer and wine liquor license. As part of the application process for this license, applicants must be able to identify and describe, in writing, how the drink qualifies for classification as a specialty drink.

SECTION SEVEN. Title 8, Chapter 8.20, Section 8.20.020.365 of the Clark County Code is hereby amended to read as follows:

8.20.020.380 Supper club.

"Supper club" means a restaurant with a bar operation that may also have a lounge, conducting retail alcoholic liquor sales, where the restaurant operation is the principal business. It is the intent of this section that the service of alcoholic liquor is merely an adjunct to the meals offered

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by the supper club. A supper club must maintain seating at tables or booths to serve full course meals to a minimum of fifty patrons at the same time.

The following operating requirements pertain to all locations approved by the board for a supper club liquor license:

- (a) All applicants for a supper club must submit a written security plan to prevent minors from loitering on the licensed premises and to prevent the service to and consumption of liquor by minors. In addition, the written security plan must include a floor plan clearly defining all table seating and bar seating, location of signage prohibiting minors from sitting at any bar, as well as the ingress/egress to and from any outdoor dining and drinking. The security plan must be submitted as part of the liquor license application, and once accepted: compliance therewith shall become a condition to licensing. Any subsequent modification to a security plan, which shall become a condition of the license, must be submitted to the director for inclusion as part of the license record and amendment to the condition of licensure. For all supper clubs that are licensed as of January 1, 2018, prior to any modification of the floor plan, a revised floor plan must be submitted for approval to the director or designee along with a written security plan to prevent minors from loitering on the licensed premises and to prevent the service to and consumption of liquor by minors.
- (b) Supper club locations that have waitresses or waiters serve alcoholic liquors to patrons away from the bar area must apply to the board and receive approval for a service bar liquor license prior to conducting such operations.

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- (c) Complete meals are to be served during all hours that the bar is open for business and a cook and a food server other than the bartender must be on duty at all such times.
- (d) It is unlawful for a supper club to operate a buffet, buffet-style, cafeteria, or cafeteria-style restaurant as the primary food operation of the business. Supper club liquor license locations are allowed to offer buffets, buffet-style, cafeterias, and cafeteria-style food operations among their menu selections at a fixed price; however, the aforementioned food operations are only to supplement the regular menu of complete meals and a la carte items the charge of which is clearly delineated on the customer's receipt.
- (e) It is unlawful for a licensee approved by the board for a supper club liquor license to charge or collect any admission fee, including, but not limited to, soliciting donations or requiring ticket purchases, for entry into the licensed establishment or for the customer to participate in or view any activity taking place within the establishment.
- (f) The licensee is required to maintain accurate records and supporting documents consistent with proper accounting procedures. All revenue sources at the point of sale must be clearly identified and segregated, including all revenue from any use of the licensed establishment. The sale of food must be distinguished from the sale of alcoholic liquor, including complimentary alcoholic liquor valued at the retail rate, and any other revenue sources. Every customer must be given a receipt that is produced by a mechanical or computerized system for every purchase. The receipts must distinguish food sales from alcoholic liquor sales and any other revenue

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sources, and a copy of the receipts, including complimentary alcoholic liquor, must be retained by the licensee for audit purposes. In addition to the receipts, the licensee must maintain a daily summary report that segregates food sales, alcoholic liquor sales, alcoholic liquor complimentaries, and any other revenue sources. All allocations of revenue must be supported with proper documentation. The receipts are subject to periodic audit to ensure that the licensee is in compliance with this section. Any audit of the amounts due must not include any period for the licensing of the business ending more than three years before the date of the audit, unless the business has been operating without such a license or the auditor has reason to believe that the business has made a fraudulent or material misstatement of its revenue.

- (g) The board is empowered to determine that the restaurant operation is the principal business by an examination of the gross revenue from the sale of food as compared with the gross revenue from the sale of alcoholic liquor, including complimentary alcoholic liquor valued at the retail rate.
- (h) Any supper club applicant/licensee desiring a drive-thru and/or walk-up window for food service shall ~~[, prior to the installation and/or use of such a window, obtain board approval by making written application for same with the director. The board may, for good cause shown, approve the installation and use of a drive thru and/or walk up window for food service only. The applicant/licensee must also]~~ comply with the drive-thru and walk-up restrictions as provided in Clark County Code Sections ~~[Section]~~ 8.20.312 and 8.20.313 or be subject to disciplinary action as described therein. ~~[The applicant/licensee shall further comply with all applicable~~

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~~zoning, building, fire, and health regulations that relate to the installation and/or use of drive-thru and/or walk-up windows.]~~

(i) ~~[An administrative fee in the amount of one hundred fifty dollars shall be required upon the filing of the application for a drive-thru window.~~

(j) It is unlawful for any supper club to offer live entertainment without first obtaining a permit in accordance with subsection 8.20.020.147 of this code. "Live entertainment" means the provision of any amusement or attention engaging activity, as an ancillary use of the supper club license, by an animal or human performing in person including, but not limited to, the performance of acts, music, speech, dance, acrobatics, disc jockeys, karaoke, or display, but not including adult uses.

(j) ~~(k)~~ Gross revenue percentages. All locations must maintain food sales not less than fifty percent of the gross revenue as compared to the gross revenue from the sale of alcoholic liquor, including complimentary alcoholic liquor valued at the retail rate.

SECTION EIGHT. Title 8, Chapter 8.20, Section 8.20.312 of the Clark County Code is hereby amended to read as follows:

8.20.312 Drive-thru and walk-up window restrictions.

It shall be unlawful for any liquor licensee to sell, serve, allow consumption, give away or distribute or cause or permit to be sold, offered for sale, served, given away or distributed any alcoholic liquor through any drive-thru or walk-up window. Drive-thru and walk-up windows in establishments that are licensed for alcoholic liquor shall, at all times the window is open to the

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public, be under the supervision of a person who is at least twenty-one years of age. Drive-thru and walk-up windows in establishments licensed for liquor shall not be located at or near the bar/lounge area. No alcohol container shall be opened nor shall any alcoholic drink be prepared or served from the kitchen or food preparation area of an establishment licensed for liquor that has a drive-thru or walk-up window.

Alcoholic liquor licensees who operate drive-thru and/or walk-up windows shall post signs that provide notice that the Clark County Code prohibits the sale, service and distribution of alcoholic beverages through such windows. These signs shall be posted in conspicuous places:

- (a) Inside the building, in the area where employees operate the window; and
- (b) Outside the building, where customers place orders for service and at the pick up window.

If a liquor licensee violates the provisions of this section, the board may, unless good cause is shown, require the licensee to permanently close its drive-thru and/or walk-up window and the licensee may also be subject to disciplinary action, including license revocation, pursuant to Section 8.20.570 of this code.

SECTION NINE. Title 8, Chapter 8.20 of the Clark County Code is hereby amended by adding a new Section 8.20.313 to read as follows:

8.20.313 Drive-thru and walk-up window requirements.

- (a) Any liquor applicant/licensee defined or referred to in Subsections 8.20.020.310, 8.20.020.315, 8.20.020.320, 8.20.020.325, 8.20.020.335, 8.20.020.365 or 8.20.020.380

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desiring a drive-thru and/or walk-up window for food service shall, prior to the installation and/or use of such a window, obtain board approval by making written application for same with the director. The board may, for good cause shown, approve, the installation and use of a drive-thru and/or walk-up window for food service only. The applicant/licensee must also comply with the drive-thru and walk-up restrictions as provided in Clark County Code Section 8.20.312 or be subject to disciplinary action as described therein. The applicant/licensee shall further comply with all applicable zoning, building, fire, and health regulations that relate to the installation and/or use of drive-thru and/or walk-up windows.

(b) Any applicants/licensees defined or referred to in Subsections 8.20.020.310 or 8.20.020.315 that have a drive-thru and/or walk-up window for food service that desires a liquor license shall, prior to the sale or service of liquor, obtain board approval by making written application for same with the director. The board may, for good cause shown, approve, the installation and use of a drive-thru and/or walk-up window for food service only in conjunction with the liquor license. The applicant/licensee must also comply with the drive-thru and walk-up restrictions as provided in Clark County Code Section 8.20.312 or be subject to disciplinary action as described therein. The applicant/licensee shall further comply with all applicable zoning, building, fire, and health regulations that relate to the installation and/or use of drive-thru and/or walk-up windows.

SECTION TEN. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the

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remaining parts of this ordinance. It is the intent of the County Commission in adopting this ordinance that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this ordinance are declared to be severable.

SECTION ELEVEN. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION TWELVE. This ordinance shall take effect and be in force after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the _____ day of _____, 2022.

PROPOSED BY: Commissioner _____

PASSED on the _____ day of _____, 2022.

AYES: _____

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NAYS: _____

ABSTAINING: _____

ABSENT: _____

LIQUOR AND GAMING LICENSING BOARD

BY: _____

JUSTIN JONES, Chairman

ATTEST:

LYNN MARIE GOYA, County Clerk

This ordinance shall be in force and effect from and after
the _____ day of _____ 2022.