

ORDINANCE NO. 3106
(ZOA-13-500338 – Zoning Ordinance Amendment)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO AMEND TITLE 19 OF THE HENDERSON MUNICIPAL CODE BY AMENDING SECTION 19.5.5.H-BREW PUB/MICROBREWERY, SECTION 19.5.5.O-EATING AND DRINKING ESTABLISHMENTS, AND SECTION 19.5.5.S.2-RESTRICTED GAMING, TO MAKE VARIOUS REVISIONS, SOME OF WHICH ARE NECESSITATED BY RECENT AMENDMENTS TO NRS.463, AND MATTERS PROPERLY RELATED THERETO.

- WHEREAS, it is the intent of the City of Henderson to maintain a zoning ordinance for the safe and orderly development of property; and
- WHEREAS, the City of Henderson adopted a new zoning ordinance on January 19, 2010; and
- WHEREAS, a zoning ordinance will invariably need to be updated and amended as issues and needs arise; and
- WHEREAS, some changes were necessitated by recent amendments to NRS.463 and NRS 597; and
- WHEREAS, the changes will further develop a distinction between a tavern and a restaurant with bar; and
- WHEREAS, the changes will provide clarity for what the City expects from these establishments; and
- WHEREAS, the Henderson Planning Commission has recommended approval of this request; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Henderson Development Code, Section 19.5.5., is hereby amended as follows:

Section 19.5.5.H BREW PUB/MICROBREWERY/CRAFT DISTILLERY

1. Definitions
An establishment that manufacturers malt beverages and sells those malt beverages at retail; or manufactures distilled spirits (per NRS Chapter 597). [and where s] Sample products made on site may be offered at no cost to visitors.
2. Standards
 - (a) All Districts

- (1) Brew pubs/microbreweries/craft distilleries are subject to the minimum separation requirements for taverns. See Section 19.5.5.O.3, Eating and Drinking Establishment: Taverns.
 - (2) Any proposed alcohol or liquor use shall comply with Section 19.5.5.A.1, Distance Limitations for Alcohol and Liquor Uses (same requirements as for a Tavern), and all Title 4 requirements for the subject use.
 - (3) Brew pubs/microbreweries/craft distilleries located in and owned or operated by a nonrestricted or limited gaming licensee shall be covered under the licensee's nonrestricted/limited gaming establishment's liquor license.
 - (4) A freestanding brew pub/microbrewery/craft distillery or independently owned brew pub/microbrewery/craft distillery located within a nonrestricted or limited gaming location shall be licensed as [a tavern] required per Title 4.
 - (5) A brew pub/microbrewery/craft distillery establishment may provide accessory outdoor food service and seating areas, including tables and chairs, for the use of their customers, provided they comply with the standards for such accessory uses in Section 19.5.7.D.8.
 - (6) Any use that includes live entertainment shall comply with the standards for live entertainment uses in Section 19.5.5.A, General Standards for Alcohol and Liquor Uses and Live Entertainment.
 - (7) Distance separations and exemptions for taverns shall also apply to brew pubs/microbreweries. See Section 19.5.5.O.3(b)(2)[ii. and iii].
 - (8) Any use that includes Restricted Gaming shall comply with the standards in Section 19.5.5.S.2, Restricted Gaming and Title 4.32. An applicant shall demonstrate compliance with these standards through the Conditional Use Permit for a Brew Pub/Microbrewery.
- (b) CT Districts
Brew pubs/microbreweries/craft distilleries are allowed only as part of a mixed-use project.
- (c) IP Districts

- (2) Brew pubs/microbreweries/craft distilleries must be located in a stand-alone building or end unit of a multi-tenant building.
- (3) Brew pubs/microbreweries/craft distilleries must provide sound-proofing and odor abatement.

Section Title 19.5.5.O EATING AND DRINKING ESTABLISHMENT

2. Restaurant with Bar

(a) Definition

A place or space in a suitable building kept, used, maintained, advertised and/or held out to the public to be a place in which the primary business is to serve meals for onsite or offsite consumption and has food available for service during all times that [liquor] alcoholic beverages are [is] sold, and wherein there is a fixed or permanent barrier to ensure separation between the bar/lounge area and the dining area sufficient to exclude minors from the bar/lounge area. See HMC 4.36.

(b) Standards

(1) All Districts

- i. The hours of operation shall be limited to between 6:00 a.m. and 2:00 a.m. Extended hours of operation beyond the limits stated above may be requested through a Conditional Use Permit. Residential compatibility shall be considered when extended hours of operation are requested. The following items may be considered, but not limited to, location of building ingress and egress, setbacks, parking locations, and loading zones.
- iii. [The seating capacity at all times within the indoor dining area shall be at least 100 people.] The actual seating available at all times within the indoor dining area must be able to accommodate at least one hundred persons.
- viii. The bar area may not be fully enclosed (by use of full walls or other separation methods) with only an access door provided between it and the dining area. A maximum three-foot high wall may be utilized to separate the bar from the dining area, or other height to accommodate seating areas as determined by the Community Development & Services Director.

- ix. Any use that includes Restricted Gaming shall comply with the standards in Section 19.5.5.S.2, Restricted Gaming and Title 4.32.
3. Tavern
- (a) Definition
- [A place where the primary business is the service or sale of alcoholic liquors at retail by the drink to the general public and wherein no other business, except gaming, a dance hall, or the service of food is conducted.]
- An establishment 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: a dance hall, live entertainment, food service, and/or restricted gaming.
- (b) Standards
- (1) All Districts Standards
- iii. Any use that includes Restricted Gaming shall comply with the standards in Section 19.5.5.S.2, Restricted Gaming and Title 4.32. An applicant shall demonstrate compliance with these standards through the Conditional Use Permit for a Tavern.
- (2) Proximity of Taverns
- i. Objective
- [ii] The health, safety, morals, and welfare of the inhabitants of the City are best promoted and protected by requiring a separation between individual taverns and established residential areas.
- ii. [iii]. Separation Distance Requirements
- [2. Unless a tavern contains a restaurant and is operated in accordance with the standards in HMC Section 4.36.040, it shall not be located within 500 linear feet of any developed residential zoning district with an "R" designation. This distance shall be measured from the occupied space of the proposed tavern to the property line of the closest existing residential dwelling unit.]
2. Residential compatibility shall be considered when a tavern is located within 500 linear feet of any developed

residential zoning district with an "R" designation. This distance shall be measured from the occupied space of the proposed tavern to the property line of the closest existing residential dwelling unit. The following items may be considered, but not limited to, location of building ingress and egress, setbacks, parking locations, and loading zones.

iii.[iv.] Exemptions

[v. Reduction in Separation Distance

The minimum separation distance between taverns may be reduced or waived through the issuance of a conditional use permit provided the Planning Commission and/or the City Council finds:

3. The applicant has shown by clear and convincing evidence that a reduction or waiver of the distance requirements will not compromise the stated objective in safeguarding the interest of the citizens of the City.
4. The proposed use may be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as outlined in the Comprehensive Plan.
5. The subject site is physically suitable for the type and intensity of land use being proposed.
6. Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.]

5. Wine Lounge
(b) Standards
Slot machines [or gaming devices]are prohibited in the wine lounge.
6. Urban Lounge
(a) Definition

[A place where the primary business is the service or sale of alcoholic liquors at retail by the drink to the general public, with a live entertainment component wherein no other business, except gaming, a dance hall or the service of food is conducted.]

An establishment primarily engaged in selling or serving alcoholic beverages at retail by the drink to the general public for on-premises consumption including a live entertainment component.

(b) Standards

(6) [The number of gaming machines will be regulated by the State of Nevada with a maximum 15 machines. No stand-alone upright gaming machines permitted.] Any use that includes Restricted Gaming shall comply with the standards in Section 19.5.5.S.2, Restricted Gaming and Title 4.32.

(9) [Uses are subject to all requirements of 19.5.5.A.1 Distance Limitations for Alcohol and Liquor Uses.]

Section 19.5.5.S.2 - Gaming Establishment

2. Restricted Gaming

RESIDENTIAL										DOWNTOWN RESIDENTIAL				
RS-1	RS-2	RS-4	RS-6	RS-8	RM-10	RM-16	RH-24	RH-36	RMH	DH	DRL	DRM	DRH	DP
COMMERCIAL					INDUSTRIAL				MIXED-USE			DOWNTOWN		
CN	CO	CC	CH	CT	CA	IL	IG	IP	MC	MN	MR	DCC	DHC	PS
[P] S	[P] S	[P] S	[P] S	[P] S	[P] S	S	S	S	[P] S	[P] S	[P] S	[P] S	[P] S	

(a) Definition

The operation of 15 or fewer slot machines [or gaming devices] that are incidental to the primary business at the establishment wherein the slot machines [or gaming devices] are to be located regardless of ownership of the slot machines [and/or gaming devices]; or as may be amended from time to time by the State in NRS Chapter 463.

(b) Standards

(1) All Districts

- i. Any use that includes live entertainment shall comply with the standards for live entertainment uses in Section 19.5.5.A.2, Live Entertainment. [Restricted gaming facilities must comply with Title 4.]

- ii. Restricted gaming facilities must comply with Title 4.32.
- (2) All Districts except DCC (Downtown Core Commercial)
 - i. An establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public shall comply with the following:
 - 1. 1-5 slot machines
 - a. Restaurant with Bar use shall be subject to the standards as required in Title 19.5.5.O.2 with the addition that all slot machines must be embedded in the bar top.
 - b. All other restricted gaming locations shall be required to comply with the minimum State standards as stated in NRS 463.161 (regardless of the effective date) with the addition that all slot machines must be embedded in the bar top.
 - 2. 6-15 slot machines
 - a. The establishment shall be primarily engaged in the service of meals with selling or serving alcoholic beverages at retail by the drink to the general public for on-premises consumption.
 - b. Contain a permanent physical bar per NRS 463.161 (regardless of the effective date).
 - c. Minimum eight (8) slot machines must be embedded in the bar top. If less than eight (8), all slot machines must be embedded in the bar top.
 - d. Contain a restaurant which:

(1) Serves meals ordered by patrons from tables or booths.
(2) Includes an indoor dining area with seating for at least 75 persons (25 of the seats may include table or booth seating within the bar area) in a room separate from the on-premise kitchen. The stools or chairs at the bar and outdoor dining area may not be counted.

(3) Includes a kitchen which is operated between the hours of 6 a.m and 2 a.m.

(4) Comply with Title 4.36.

e. The bar area may not be fully enclosed (by use of full walls or other separation methods) with only an access door provided between it and the dining area. A maximum 42-inch tall wall may be utilized to separate the bar from the dining area, or other height to accommodate seating areas as determined by the Community Development and Services Director.

(3) DCC (Downtown Core Commercial)

i. An establishment which is licensed to sell alcoholic beverages at retail by the drink to the general public shall comply with the following:

1. Shall be required to comply with the minimum State standards as stated in NRS 463.161 (regardless of the effective date).
2. Minimum eight (8) slot machines must be embedded in the bar top. If less than eight (8), all slot machines must be embedded in the bar top.

SECTION 2. If any section, subsection, paragraph, clause or provision of this Ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section or subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Editor's Note: Pursuant to City Charter Section 2.090(3), language to be omitted is enclosed in [bold brackets], and language proposed to be added is underscored.

SECTION 3. All ordinances, or parts of ordinances, sections, subsection, phrases, sentences, clauses or paragraphs contained in the *Municipal Code of the City of Henderson, Nevada*, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on December 20, 2013, in the Review Journal.

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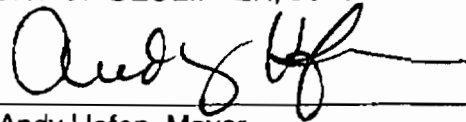
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PASSED, ADOPTED, AND APPROVED THIS 17th DAY OF DECEMBER, 2013.




Andy Hafen, Mayor

ATTEST:


Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on December 3, 2013, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

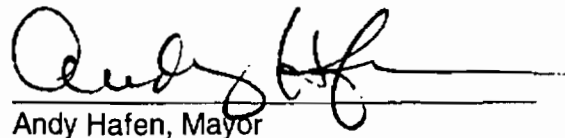
"COUNCIL AS A WHOLE"

Thereafter on December 17, 2013, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held December 17, 2013, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye: Andy Hafen, Mayor
Councilmembers:
Sam Bateman
Debra March
John F. Marz
Gerri Schroder

Those voting nay: None
Those abstaining: None
Those absent: None




Andy Hafen, Mayor

ATTEST:


Sabrina Mercadante, MMC, City Clerk