

**City of Elko  
Business Impact Statement**

The following business impact statement was prepared pursuant to NRS 237.090 to address the proposed impact of the City of Elko Ordinance 835 and Resolution 27-18.

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 9, OF THE ELKO CITY CODE ENTITLED "PROSTITUTION" BY ADDING NEW LANGUAGE AND CLARIFYING MATTERS RELATED THERETO.**

**27-18 A RESOLUTION AMENDING THE brothel LICENSING FEES of Brothels.**

1. The following constitutes a description of the number and the manner in which comment was solicited from affected businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary. NRS 237.090(1)(a)

The ordinance presented for adoption amends various sections of the Prostitution ordinance as follows:

**AMENDS THE TITLE OF CHAPTER 9 FROM PROSTITUTION TO BROTHEL; AMENDING THE DEFINITIONS; CLARIFYING LANGUAGE; AMENDS THE LICENSE APPLICATION CONTENTS; AMENDS THE LICENSE APPLICATION, FILING AND INVESTIGATION; AMENDS THE MAXIMUM NUMBER OF BROTHELS IN THE CITY; AMENDS THE ISSUANCE OR DENIAL OF A LICENSE; AMENDS THE LICENSE FEE'S; AMENDS THE WORK PERMIT REGISTRATON REQUIREMENTS; CLARIFY LANGUAGE REGARDING THE MEDICAL EXAMINATIN REQUIREMENTS; REQUIRES TRANSLATORS FOR SEX WORKERS WHEN SPEAKING TO CITY STAFF OR POLICE OFFICERS; AMENDS THE REVOCATION OF LICENSES; AMENDS THE HEARING PROCEDURES; AND INCREASES THE APPLICATION AND LICENSING FEES FOR BROTHELS.**

**Notice of Proposed Rule**

- A notice was published in the Elko Daily Free Press for a period of five days regarding the proposed rule, how to submit comments, and when to submit comments.
- Letters were sent to the owners of each brothel owner as well as the Elko Chamber of Commerce. Names and addresses were obtained directly from the original license application.
- The City Clerk and Chief of Police personally spoke with each brothel owner regarding the proposed changes and comment period.
- Written comments were received by four people and verbal comments were received by one person.

**Notice of Public Hearing**

The City of Elko will hold a public hearing on **December 18, 2018** commencing at 5:30 p.m. at Elko City Council Chambers, Elko City Hall, 1751 College Avenue, Elko, Nevada. The City of Elko will receive testimony from all interested persons and consider and take action on the following proposed ordinance and resolution. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the City of Elko may proceed to immediately act upon any written submissions.

**Summary of Comments:**

Written comments are attached.

The one verbal comment received includes: *"Elko is not like Nye County or Lyon County that are both near metropolitan cities. The brothels in Elko do not have the business the larger cities have and the brothel's in Elko make very little profit."*

2. The estimated economic benefit of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects. NRS 237.090(1)(b)

**Adverse effects:** Various changes in the ordinance and resolution may be considered adverse effects.

- The cost of a license to operate a brothel is going from \$3000 per year to \$10,000 per year.
- The application (investigation) fee is going from \$2500 per applicant to \$5000 per applicant.
- The number of brothel's allowed in the City limits is decreasing by one.
- There will be a cost to the requirement the brothel's provide a translator if necessary.

**Beneficial effects:** Various changes in the ordinance and resolution may be considered beneficial.

- The language has been updated to current, more respectful terminology.
- The Board can place a licensee on probation rather than a suspension or revocation.
- The requirement to provide a translator is a deterrent for sex trafficking.
- The fee increase will ensure the privileged license is not subsidized by the tax payers as the City will be able to recoup the cost of licensing, investigation, and monitoring of the brothels.

**Direct effects:** Various changes in the ordinance and resolution could potentially directly effect businesses.

- Brothel owners could decrease the amount of payment received by the sex workers to make up for the increase in the licensing fees.
- Brothel owners could increase the fee to customers to make up for the increase in the licensing fee.

**Indirect effects:** Various changes in the ordinance and resolution could potentially indirectly effect businesses.

- No indirect effects are known at this time.

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed ordinance on businesses and a statement regarding whether any, and if so which, of these methods were used: (include whether the following was considered: simplifying the proposed rule; establishing different standards of compliance for a business; and if applicable, modifying a fee or fine set forth in the rule so that business would pay a lower fee or fine).

The continued existence of the brothel industry is dependent upon public confidence and trust that licensed prostitution is conducted honestly and competitively and free from criminal and corruptive elements. Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of a licensed brothel. Strict regulation includes the necessity for background and investigative fees, and the assessment of fees to ensure compliance with the City ordinance and State law. No applicant has any right to receive a license, and any license issued and received is a revocable privilege to the holder thereof. Therefore, no other methods were considered to reduce the impacts on the operation.

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is: NRS 237.090(1)(d)

There is no additional cost and all costs incurred will be covered from the increase in the fees.

5. The proposed rules provides for a new fee or increase in an existing fee and the total amount the local government expects to collect is: NRS 237.090(1)(e)

The proposed rule includes the following fee increase:

Description of Fee	Current Rate	Proposed Rate
Application Fee	\$2500 per applicant	<b>\$5000 per applicant</b>
License Fee	\$3000	<b>\$10,000 per license</b>
Annual Renewal Fee	\$3000	<b>\$10,000 per license</b>

The City estimates collection to be \$40,000 per year for the licenses. Currently all four brothels are owned, therefore there is no estimation for the application fees.

6. The money generated by the new fee or increase in existing fee will be used by the local government to: NRS 237.090(1)(e)

The money generated by the fee increase will be used to cover the cost of the City of Elko Police Department to complete the investigations and enforce the rules in the ordinance.

7. The proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity. The following explains when such duplicative or more stringent provisions are necessary: NRS 237.090(1)(f)

The proposed changes are not duplicative or more stringent than existing federal, state or local standards.

**Objection to adopted rule: petition; procedure**

A business that is aggrieved by a resolution or ordinance adopted by the City Council may object to all or part of the resolution or ordinance by filing a petition with the Elko City Clerk within 30 days after the date on which the rule was adopted. Any petition filed must be based on the following grounds:

1. The City of Elko failed to prepare a business impact statement.
2. The business impact statement prepared did not consider or significantly underestimated the economic effect of the rule on business.

After receiving a petition filed by an aggrieved business, the Elko City Council shall determine whether the petition has merit.

If the governing body determines that the petition has merit, the Council may take action to amend the rule to which the business objected.

If the City Council finds that the petition does not have merit, the Council will take no action to amend the ordinance, resolution or regulation and such ordinance, resolution or regulation will remain in effect.

**Conclusion:**

On December 11, 2018 Elko City Council determined the following:

Pursuant to NRS 237.080(2), a rebuttable presumption is created that the proposed resolution will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.

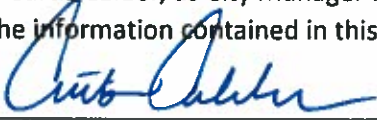
The Elko City Council approves the Business Impact Statement with the following fee structure changes in order to reduce the impact:

Description of Fee	Current Rate	Proposed Rate
Application Fee	\$2500 per applicant	<u>\$5000 per applicant</u>
License Fee	\$3000	<u>\$6500 per license</u>
Annual Renewal Fee	\$3000	<u>\$6500 per license</u>

**Certification:**

CITY MANAGER CERTIFICATION REQUIRED PER NRS 237.090(2):

I, Curtis Calder, as City Manager for the City of Elko, Nevada, hereby certify that, to the best of my knowledge and belief, the information contained in this business impact statement was prepared properly and accurately.



Curtis Calder

Prepared By:



Kelly Wooldridge  
City Clerk

Elko City Council  
C/O Elko City Clerk, Kelly Wooldridge  
1751 College Avenue  
Elko, Nevada 89801

November 19, 2018

Re: Resolution No. 27-28

A Resolution amending the Brothel Licensing Fee Rates

Mr. Mayor and Members of the City Council:

We, the undersigned brothel owners in Elko are greatly concerned that the proposed Licensing/Annual Renewal Fees are being more than tripled without sufficient research and feedback of the economic consequences to the affected businesses. In our view, the four Elko brothels are being unfairly compared to brothels elsewhere in the State, as well as other types of lawful businesses within the community.

Our business potential is limited due to the relatively small size of our community, and severe zoning restrictions which limit us to existing locations that are away from freeway access. We have no potential to expand our number of rooms as do other brothels with much higher populations in other areas.

An example is Mustang Ranch in the Reno, Sparks Truckee area with a population of about 500,000. The Mustang (Storey County) annual fee is \$75,000 but we have 6% of that population, so an appropriate proportional fee would be in the range of \$4,500 to \$5,000 annually. Mustang has 30-40 rooms, and out-dating is allowed, where we have a maximum of 7 available rooms, with no out-dating. A recent news article indicates that the Mustang Ranch provides full and part time jobs for 160 people on a multi million dollar payroll, which is enormously more than the relatively modest amount of revenue available to us in Elko.

In addition to the restrictions outlined above, we are also severely limited in our ability to promote and advertise our businesses. Other businesses in Elko enjoy the ability to expand, change locations, and freely advertise. We have an exceptionally high operating costs with night time hours and necessary security.

In comparing our businesses to those in Wells, it is important to note that they enjoy relatively easy freeway access, and have 3 or 4 times the number of rooms that we do. The fee in Wells is set at \$5,000. The businesses in Lyon County also far exceed Elko in terms of number and size.

We do recognize that it is reasonable and appropriate to increase the fees in Elko, as the \$3,000 number has been in place since 2010. However, we do not believe that it is reasonable, or necessary to more than triple the amount to \$10,000. Instead, we would respectfully suggest an increase of \$2,000, which would place the new annual fee at \$5,000. The proposal for \$10,000 clearly imposes "a direct and significant burden upon" our businesses.

Yours respectfully,

Kathleen Ornelas, Owner of Desert Rose

Gabriel Ornelas, Manager of Desert Rose

Louis Goldberg, Owner of Mona's Ranch and Inez's

Elko City Council  
C/O Elko City Clerk, Kelly Wooldridge  
1751 College Avenue  
Elko, Nevada 89801

November 19, 2018

Re: Resolution No. 27-28  
A Resolution amending the Brothel Licensing Fee Rates

Mr. Mayor and Members of the City Council:

We, the undersigned brothel owners in Elko are greatly concerned that the proposed Licensing/Annual Renewal Fees are being more than tripled without sufficient research and feedback of the economic consequences to the affected businesses. In our view, the four Elko brothels are being unfairly compared to brothels elsewhere in the State, as well as other types of lawful businesses within the community.

Our business potential is limited due to the relatively small size of our community, and severe zoning restrictions which limit us to existing locations that are away from freeway access. We have no potential to expand our number of rooms as do other brothels with much higher populations in other areas.

An example is Mustang Ranch in the Reno, Sparks Truckee area with a population of about 500,000. The Mustang (Storey County) annual fee is \$75,000 but we have 6% of that population, so an appropriate proportional fee would be in the range of \$4,500 to \$5,000 annually. Mustang has 30-40 rooms, and out-dating is allowed, where we have a maximum of 7 available rooms, with no out-dating. A recent news article indicates that the Mustang Ranch provides full and part time jobs for 160 people on a multi million dollar payroll, which is enormously more than the relatively modest amount of revenue available to us in Elko.

In addition to the restrictions outlined above, we are also severely limited in our ability to promote and advertise our businesses. Other businesses in Elko enjoy the ability to expand, change locations, and freely advertise. We have an exceptionally high operating costs with night time hours and necessary security.

In comparing our businesses to those in Wells, it is important to note that they enjoy relatively easy freeway access, and have 3 or 4 times the number of rooms that we do. The fee in Wells is set at \$5,000. The businesses in Lyon County also far exceed Elko in terms of number and size.

We do recognize that it is reasonable and appropriate to increase the fees in Elko, as the \$3,000 number has been in place since 2010. However, we do not believe that it is reasonable, or necessary to more than triple the amount to \$10,000. Instead, we would respectfully suggest an increase of \$2,000, which would place the new annual fee at \$5,000. The proposal for \$10,000 clearly imposes "a direct and significant burden upon" our businesses.

Yours respectfully,

Kathleen Ornelas, Owner of Desert Rose

Gabriel Ornelas, Manager of Desert Rose

Louis Goldberg, Owner of Mona's Ranch and Inez's



**Raymond Lee, L.L.C.  
5677 Alpha Ave  
Reno Nevada 89506**

**Office & FAX: 775 329 2224**

**Elko City Council  
Care of Kelly Wooldridge, City Clerk  
Email: [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov)**

**Subject: RESOLUTION NO. 27-18, ORDINANCE AMENDING  
TITLE 4, CHAPTER 9, OF THE ELKO CITY CODE ENTITLED  
"PROSTITUTION"**

**Gentlemen:**

**We are stake holders regarding the above mentioned City Ordinance.  
We own the building at 357 Douglas and lease it to Kathleen Ornelas  
(the Desert Rose Brothel).**

**My observation is two fold:**

**1. The proposed License Fee appears to be excessive. A 400 percent  
increase in a government fee seems extreme. Our personal concern is  
the loss of the Red Rose as a tenant could result in a loss of all the  
income for this Corporation. This is our only property.**

**2. Regarding the definition of a PERSON:**

**As the code defines a corporation and partnership as a PERSON:  
SECTIONS 4-9-6 A,C and D all place barriers for corporations and  
partnerships to enter the industry and raise capital. Funds that could be  
used to improve facilities, provide employee training and benefits and  
improve public safety in and about the facility are no longer available.  
This means of acquiring capital, although not presently used, would be  
the most advantageous way to raise monies. Selling shares to a wide  
diverse group of individuals would likely result in each owning a small  
percent of the corporation. Most likely less than 10%, more likely less  
the 1%, of the outstanding shares would be acquired by individual  
shareholders. I suggest the City Council reduce their requirements from**

**“ALL” to stakeholders holding 20% or more interest of a brothel’s company stock be required to satisfy this section of the code.**

**Examples of conflict:**

**4-9-6**

**A: “Any Financial interest in the Brothel”**

**If the stock were correctly marketed this could be tens of thousands of stock holders, with most avoiding their names and addresses being on a public venue.**

**C: “A resent photograph and complete set of fingerprints of all persons listed in Subsection A”**

**Nobody will buy a publicly traded stock for a few hundred dollars that has this heavy financial and reporting burden.**

**D: “Names and address of all businesses”**

**This requirement would stop any investor, trust fund or individual from purchasing shares in this company. This section creates a significant burden to all investors.**

**I will attend your City Council meeting on December 11, 2018. If appropriate feel free to have your staff contact me by phone or email if I can be of assistance.**

**Sincerely**



**Keith J Bantz**

**Managing Member**

**keith@mfghousing.biz**