

## STAFF REPORT

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**Date:** May 8, 2024

**To:** Mayor and City Council

**Thru:** Doug Thornley, City Manager

**Subject:** Staff Report (For Possible Action): Annual review of Downtown Safe Scape compliance and consideration of approval, denial, or imposition of conditions pursuant to Reno Municipal Code 5.07.123(j)(2) – Nesa Food & Discount Liquor, 1445 East 4th Street.

**From:** Lance Ferrato, Director of Business Licensing

**Department:** Business Licensing

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### **Summary:**

This report summarizes findings related to the annual Safe Scape inspection conducted at Nesa Food & Discount Liquor (R108738A-LIC/R101285Q-LIC), a convenience store located at 1445 East 4th Street (Exhibit A). Based upon the results of the inspection and compliance with all applicable requirements, staff recommends that Council approve the renewal.

### **Alignment with Strategic Plan:**

Economic and Community Development

Public Safety

### **Previous Council Action:**

January 12, 2022 – Council adopted Ordinance No. 6618.

### **Background:**

On January 12, 2022, Council adopted Ordinance No. 6618 which included several changes to Reno Municipal Code (“RMC”) Chapter 5.07, “Alcoholic Beverages.” Incorporated in the amendment was a revised version of the “Safe Scape” regulation (Exhibit B) carried over from the Land Development Code, which included several new provisions:

- The requirement to sell fresh or frozen perishable foods
- Limitations on specific products based on serving size
- The creation of a “Buffer Area” with similar standards
- Additional Council discretion when considering applications
- Compliance review provisions

As provided in RMC Sec. 5.07.123(a), all existing businesses were given 18 months to comply with the new provisions (July 12, 2023) and in June 2023, all impacted businesses were reminded via correspondence and in-person visits from Business License Compliance Officers. To ensure all operators were educated on the new requirements, annual reviews did not commence until October 2023.

Furthermore, RMC Sec. 5.07.123(j)(2) stipulates that Council may review these businesses upon the annual business license renewal:

“Annual Review. Upon renewal of the annual business license affiliated with the privileged package alcohol license, the city council may review the history of the business and consider approving, denying, or conditioning the renewal of the license as it considers appropriate. Conditions may include, but are not limited to, requiring a security employee or contractor during specified hours and/or modifying hours of operation.”

This report has been submitted to Council to review the annual business license renewal and approve, deny, or impose conditions accordingly.

#### **Discussion:**

In accordance with RMC Sec. 5.07.123(j)(2), staff conducted an unscheduled site inspection and completed a detailed checklist (Exhibit C). After an initial assessment and grace period, the licensee was able to comply with all requirements except two.

The first, RMC Sec. 5.07.123(f)(1), which addresses visibility:

“The total area of opaque objects, including but not limited to items such as signs, displays, coolers, merchandise, automatic teller machines, and calling card vending machines, which are located on or within three horizontal feet of the window, shall not exceed twenty-five percent (25%) of the area of any window or door glass.”

Inspections of multiple businesses revealed that it is common practice to install upright coolers against the windows due to lack of available space, the size of the coolers, and access to electrical outlets. Further investigation and discussions with Code Enforcement, multiple site visits, interviews, and comparisons resulted in Code Enforcement drafting a Memorandum of Understanding (Exhibit D) to waive this provision if certain requirements were met.

As noted in the memo, staff recognized that reducing an operator’s retail space would directly impact sales. Staff also understood the most likely approach to comply would be for business owners to move coolers away from the windows to meet the three-foot minimum, which would create an unsafe environment as well as conflict with the intent of the provision. Consequently, compliance with RMC Sec. 5.07.123(f)(1) was waived.

The second exception relates to RMC Sec. 5.07.123(g)(1), regarding window and façade security:

“Metal security bars or grates on windows, when used on a side of a building facing a public right-of-way, shall be located on the interior side of the window.”

While reviewing this requirement in terms of real-world application, it was determined that requiring security bars on the interior of a window may be preferred aesthetically; however, it may also increase the number of broken windows, which causes the opposite effect while creating an expensive problem for the business owner. As such, compliance with RMC Sec. 5.07.123(g)(1) was waived.

***Calls for Service:***

During the adoption and introduction stages of Ordinance No. 6618, Council expressed interest in calls for service when conducting these reviews. Accordingly, calls for service were compiled for the six months preceding the annual license expiration and compared to that same period in the prior year. A summary of the data recorded is attached as Exhibit E.

**Financial Implications:**

No financial implications at this time.

**Legal Implications:**

Legal review completed for compliance with City procedures and Nevada law.

**Recommendation:**

Staff recommends Council approve the renewal.

**Proposed Motion:**

I move to approve the renewal.

**Attachments:**

Exhibit A – Vicinity Map

Exhibit B – RMC Sec. 5.07.123

Exhibit C – Safe Scape Walkthrough Checklist

Exhibit D – Safe Scape Memorandum of Understanding

Exhibit E – Calls for Service