

- B.7** Staff Report (For Possible Action): Approval of a Nevada State Liquor Manufacturer License Application for Ken Foster, Upshot Brewing Company located at 1041 South Virginia Street, Reno, Nevada, and if approved, authorize the Mayor to sign the Nevada State Liquor License Application.

## STAFF REPORT

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**Date:** April 10, 2024

**To:** Mayor and City Council

**Thru:** Doug Thornley, City Manager

**Subject:** Staff Report (For Possible Action): Approval of a Nevada State Liquor Manufacturer License Application for Ken Foster, Upshot Brewing Company located at 1041 South Virginia Street, Reno, Nevada, and if approved, authorize the Mayor to sign the Nevada State Liquor License Application.

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

**Department:** Business Licensing

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### **Summary:**

This application is for a Nevada state liquor manufacturer license (“state license”) to operate as a brewpub at 1041 South Virginia Street, Reno, Nevada. Nevada Revised Statutes (“NRS”) requires Council to review applications submitted for state licenses that will operate within the City. Based upon a background investigation conducted by the Reno Police Department (“RPD”), Council must find satisfactory evidence that the applicants are of good moral character in order to approve.

Staff recommends Council find satisfactory evidence that the applicants Ken Foster, Christopher Galli, Adam Kincaid, and Mike Sotiriadis are of good moral character and approve the state license application for Upshot Brewing Company (“Upshot”) and authorize the Mayor to sign the application.

### **Previous Council Action:**

There is no recent Council action relevant to this item.

### **Background:**

Pursuant to NRS Chapter 369 entitled “Intoxicating Liquor: Licenses and Taxes,” certain persons and businesses engaged in the importation of liquor; wholesale dealers of beer, wine, and liquors; winemakers; instructional wine-making facilities; breweries; brew pubs; and craft distilleries are required to obtain a state license to engage in the activities listed involving intoxicating liquor. Prior to the revisions in Senate Bill (SB) 22 (2015 legislative session), state law required applications for state licenses to be submitted to the Board of County Commissioners in the county in which the applicant maintained their principal place of business.

SB 22 revised the provisions of NRS 369.190, governing the review and approval of the state license. The revisions in the bill now require an applicant whose principal place of business is located within an incorporated city to submit the state license application to the governing body

of the city instead of the Board of County Commissioners. The governing body shall approve or disapprove the application based on evidence that the applicants are of good moral character. The state license requirement is in addition to any licensing requirements in the municipal code of the local jurisdiction(s) in which the business is physically located.

**Discussion:**

On January 1, 2024, staff received a state license application from Upshot to be licensed as a manufacturer/brewpub (Exhibit A).

NRS 369.190(3) and Reno Municipal Code (RMC) sec. 5.07.055(c) specify that Council shall determine if there is “satisfactory evidence that the applicant is a person of good moral character” when reviewing and approving a state license application.

RPD completed the applicant’s background investigation on March 13, 2024, and recommended approval for the alcohol manufacturer’s license. Based on the completion of the background investigation, staff has determined that the applicants are “of good moral character” and suitable to hold the state license under the provisions of NRS and RMC.

**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 find satisfactory evidence that the applicants Ken Foster, Christopher Galli, Adam Kincaid, and Mike Sotiriadis are of good moral character and approve the Nevada State Liquor Manufacturer License for Upshot Brewing Company and authorize the Mayor to sign the application.

**Proposed Motion:**

I move to approve staff recommendation.

**Attachments:**

Exhibit A – Upshot Brewing Company LLC State Application  
Notice of Waiver – Kenneth Foster  
Notice of Waiver – Christopher Galli  
Notice of Waiver – Adam Kincaid  
Notice of Waiver – Mike Sotiriadis



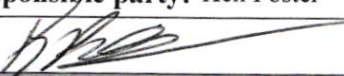
## NEVADA STATE LIQUOR LICENSE APPLICATION

The Board of County Commissioners or Incorporated Cities Governing Body Members must forward the approved and signed Form LTD 06 application to the Nevada Department of Taxation (NRS 369.200). Please note Per NRS 369.220 (3) the Nevada State Liquor License is nontransferable. The Department of Taxation's Nevada Business Registration form must be completed and attached to the application.

1	<b>Application is being submitted for</b> <input checked="" type="checkbox"/> New Business <input type="checkbox"/> Location Change <input type="checkbox"/> Additional Location		Taxpayer ID: 93-4763822
2	<b>Application is for:</b> <input type="checkbox"/> Importer/Wholesaler Liquor License <input checked="" type="checkbox"/> Manufacturer Liquor License		
3	<b>Importer/Wholesaler License Type</b> (Check all that apply): <input type="checkbox"/> Importer and Wholesaler of Wine, Beer and Spirits <input type="checkbox"/> Importer and Wholesaler of Beer <input type="checkbox"/> Wholesaler of Wine, Beer and Spirits <input type="checkbox"/> Wholesaler of Beer		
4	<b>Manufacturer License Type</b> (Check all that apply): <input checked="" type="checkbox"/> Brew Pub <input type="checkbox"/> Brewer <input type="checkbox"/> Craft Distillery <input type="checkbox"/> Estate Distillery <input type="checkbox"/> Instructional Wine Facility <input type="checkbox"/> Winemaker <input type="checkbox"/> Rectifier		
5	<b>Business Type:</b> <input type="checkbox"/> Corporation <input checked="" type="checkbox"/> LLC <input type="checkbox"/> Partnership <input type="checkbox"/> Individual <input type="checkbox"/> Other:		
6	<b>Date Incorporated/Organized:</b> 12/7/23	<b>State where Incorporated/Organized:</b> Nevada	
7	<b>Anticipated Start Date of Location:</b> 3/15/24	<b>Federal Tax ID:</b> 93-4763822	
8	<b>Name of Business:</b> Upshot Brewing Company		<b>Phone Number:</b> 7757420355
9	<b>DBA, if any:</b> <i>Upshot Brewing Company</i>		<b>Fax Number:</b>
10	<b>Business Address:</b> 1041 S Virginia St. Reno, NV 89501		
11	<b>Location of Operation:</b> 1041 S Virginia St. Reno, NV 89501		
12	<b>Mailing Address:</b> 316 California Ave. #316 Reno, NV 89509		
13	<b>Email Address:</b> ken@highlifeslt.com		
14	<b>List All Owners, Officers, Members, Partners, etc. Attach Additional Sheets if Needed.</b>		
	<b>Name:</b> Kenneth Foster		<b>Title:</b> CEO
	<b>Residence Address:</b> 385 Pine St. Reno, NV 89501		<b>% Owned:</b> 18
	<b>Name:</b> Christopher Galli		<b>Title:</b> Manager
	<b>Residence Address:</b> 2395 Crescent Cir. Reno, NV 89509		<b>% Owned:</b> 17
	<b>Name:</b> Adam Kincaid		<b>Title:</b> Manager
	<b>Residence Address:</b> 139 Caliente St. Reno, NV 89509		<b>% Owned:</b> 17
	<b>Name:</b> Mike Sotiriadis		<b>Title:</b> Manager
	<b>Residence Address:</b> 1470 Ridgeland Dr. Sparks, NV 89434		<b>% Owned:</b> 17

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15	<b>If Partnership, is the agreement recorded?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>In what county and city is it recorded in?</b>
16	<b>Operating under a Fictitious Firm Name?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No (Supply a certified copy of the certificate to the Department)	<b>In what county and city is it recorded in?</b>
17	<b>Has applicant applied for a local County or City license?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>If so, where?</b> Reno
18	<b>Has applicant secured all necessary Federal permits?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>TTB Permit Number (Supply a copy of permit):</b> Pending
19	<b>Is the location of operations shared with any other business?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the following:	
	<b>Business Name:</b>	<b>Type of Operations:</b>
	<b>Business Name:</b>	<b>Type of Operations:</b>
	<b>Business Name:</b>	<b>Type of Operations:</b>
20	<b>Does any person listed on this application engage in manufacturing, importing, wholesaling or retailing alcoholic beverages through another company?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the following:	
	<b>Person's Name:</b>	<b>% Owned:</b>
	<b>Business Name:</b>	<b>Type of Operations:</b>
	<b>Person's Name:</b>	<b>% Owned:</b>
	<b>Business Name:</b>	<b>Type of Operations:</b>
21	<b>Have any individuals with interest, financial or otherwise, in the applicant's business, ever been convicted of a violation of Federal or any state liquor laws?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No If so, provide the following:	
	<b>Name:</b>	<b>When:</b>
	<b>Explain:</b>	
22	<b>APPLICANT'S AFFIRMATION:</b> By signing I certify that, to the best of my knowledge under penalty of perjury, the information contained herein is correct and acknowledge that pursuant to Nevada Revised Statutes (NRS) 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing to the Nevada Department of Taxation. In addition, if I am granted a liquor license, I understand that I am expected to comply with all liquor laws, including, but not limited to NRS 369 and 597, Nevada Administration Code, and all Federal laws. Noncompliance can result in fines, suspension or revocation of my license, and criminal prosecution.	
	<b>Name of responsible party:</b> Ken Foster	<b>Title:</b> CEO
	<b>Signature:</b> 	<b>Date:</b> 01/23/24
<b>APPLICATION SUBMITTAL LOCATIONS</b>		
<b>If the location of business operations is in one of the following cities:</b> Boulder City, Caliente, Carlin, Carson City, Elko, Ely, Fallon, Fernley, Henderson, Las Vegas, Lovelock, Mesquite, North Las Vegas, Reno, Sparks, Wells, West Wendover, Winnemucca or Yerington. <b>Submit page 1, 2 and 3 to that Incorporated City's Governing Board for review and a completed Department of Taxation's Nevada Business Registration Form.</b>		

## **INCORPORATED CITIES APPROVAL PAGE**

### **For Incorporated Cities Only:**

Boulder City, Caliente, Carlin, Carson City, Elko, Ely, Fallon, Fernley, Henderson, Las Vegas, Lovelock, Mesquite, North Las Vegas, Reno, Sparks, Wells, West Wendover, Winnemucca and Yerington

**To show validity please attach letter on Incorporated Cities Letterhead attesting to the fact the application was approved or denied, listing the name of the business, the specific liquor license type and the date of approval or denial. Please add any remarks and recommendations by the Incorporated Cities Governing Body Members.**

### **FOR OFFICIAL USE ONLY**

**In order to be valid, we require signature(s) by the Incorporated Cities Governing Body Member(s):**

**Title:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Title:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Title:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Title:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**On this** \_\_\_\_\_ **day of** \_\_\_\_\_ **20** \_\_\_\_\_, **the application for a Nevada State Liquor License**

**for** \_\_\_\_\_ **has been** ☐ **Approved** ☐ **Denied**

## **COUNTY COMMISSIONERS APPROVAL PAGE**

For all Non-Incorporated Cities

### **FOR OFFICIAL USE ONLY**

Remarks and recommendations by the County Commissioners:

Board of County Commissioners:

Chairman: \_\_\_\_\_

Member: \_\_\_\_\_

Member: \_\_\_\_\_

Member: \_\_\_\_\_

Member: \_\_\_\_\_

[seal]

ATTEST:

\_\_\_\_\_, County Clerk

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the application for a Nevada State Liquor License

for \_\_\_\_\_ has been ☐ Approved ☐ Denied

**WAIVER OF NOTICE REQUIRED UNDER NRS 241.033(1)  
TO ALLOW CITY COUNCIL TO CONSIDER CHARACTER, MISCONDUCT, OR  
COMPETENCE OF PERSON TO BE CONSIDERED FOR A  
NEVADA STATE LIQUOR LICENSE**

The City Council for the City of Reno will be considering your application for a Nevada State Liquor License on April 10, 2024 at the regularly scheduled City Council Meeting, Council Chambers 1 East First Street, Reno Nevada at 10:00 AM . Pursuant to NRS 241.033(1), in order to consider the professional competence of an applicant, notice need be provided to that person of the time and place of the meeting in compliance with such statutory provisions.

By signing below, it is confirmed that "I have been provided notice of the meeting at which my application for a Nevada State Liquor License will be considered by City Council. Further, I knowingly and voluntarily am waiving my rights to all written notice requirements under NRS 241.033(1) pertaining to my qualifications, competence, and character to have a Nevada State Liquor License and consent to the evaluation of my character and competence by the Reno City Council in a public meeting".

Further, the undersigned acknowledges that he/she may at any time withdraw both this waiver and related application for a Nevada State Liquor License.

Dated this 29 day of March, 2024.

Signature of Applicant: 

By: Ken Foster  
(Printed Name of Applicant)



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Further, the undersigned acknowledges that he/she may at any time withdraw both this waiver and related application for a Nevada State Liquor License.

Dated this 29 day of March, 2024.

Signature of Applicant: 

By: Christopher Galli  
(Printed Name of Applicant)

**WAIVER OF NOTICE REQUIRED UNDER NRS 241.033(1)  
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Further, the undersigned acknowledges that he/she may at any time withdraw both this waiver and related application for a Nevada State Liquor License.

Dated this 29<sup>th</sup> day of MARCH, 2024.

Signature of Applicant: 

By: ADAM KINCAID  
(Printed Name of Applicant)

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Further, the undersigned acknowledges that he/she may at any time withdraw both this waiver and related application for a Nevada State Liquor License.

Dated this 29<sup>th</sup> day of MARCH, 2024.

Signature of Applicant: \_\_\_\_\_

By: \_\_\_\_\_

MICHAEL SOTIRIADIS

(Printed Name of Applicant)