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STATE OF NEVADA
COUNTY OF WASHOE

ss: Julia Ketcham

Being first duly sworn, deposes and says: That as the legal clerk of the Reno Gazette-Journal, a daily newspaper published in Reno, Washoe County, State of Nevada, that the notice referenced below has published in each regular and entire issue of said newspaper between the dates: **01/30/04 - 02/06/04**, for exact publication dates please see last line of Proof of Publication below.

Subscribed and sworn to before me

Signed: *Julia Ketcham*

FEB 6 2004

TANA CICCOTTI
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 02-74259-2 - Expires May 16, 2006
Tana Ciccotti

Proof of Publication

NOTICE OF ADOPTION WASHOE COUNTY ORDINANCE NO. 1229 NOTICE IS HEREBY GIVEN THAT: Bill No. 1408, Ordinance No. 1229 entitled AN ORDINANCE AMENDING THE WASHOE COUNTY CODE BY REDUCING THE BLOOD ALCOHOL LEVEL FOR THE OFFENSE OF DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR TO CONFORM TO STATE LAW. was adopted on January 27, 2004 by Commissioners Galloway, Humke, Shaw and Weber. Commissioner Sferrazza was absent. This ordinance shall be in full force and effect from and after February 6, 2004. Typewritten copies of the ordinance are available for inspection by all interested persons at the office of the County Clerk, 350 South Center Street, Suite 100, Reno, Nevada. AMY HARVEY, Washoe County Clerk and Clerk of the Board of County Commissioners No.189728 Jan 30; Feb 6, 2004

SUMMARY: An ordinance amending Washoe County Code by reducing the blood alcohol level for the offense of driving under the influence of intoxicating liquor to conform to state law.

BILL NO. 1408

ORDINANCE NO. 1229

AN ORDINANCE AMENDING THE WASHOE COUNTY CODE BY REDUCING THE BLOOD ALCOHOL LEVEL FOR THE OFFENSE OF DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR TO CONFORM TO STATE LAW.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

SECTION 1. Section 70.3865 of the Washoe County Code is hereby amended to read as follows:

70.3865 Driving under influence of intoxicating liquor, controlled substances: Special penalty.

1. It is unlawful for any person who:

(a) Is under the influence of intoxicating liquor;
 (b) Has 0.08 percent or more by weight of alcohol in his blood; or

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have 0.08 percent or more by weight of alcohol in his blood, to drive or be in actual physical control of a vehicle on a road or highway in the County of Washoe or on premises to which the public has access within the County of Washoe.

2. It is unlawful for any person who is an habitual user of or under the influence of any controlled substance, or who is under the combined influence of intoxicating liquor and a controlled substance, or any person who inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle to drive or be in actual physical control of a vehicle on a road or highway in the County of Washoe or on premises to which the public has access within the County of Washoe. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this state is not a defense against any charge of violating this subsection.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of

alcohol after driving or being in actual physical control of the vehicle, and before his blood was tested, to cause the alcohol in his blood to equal or exceed 0.08 percent. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. Any person convicted of violating the provisions of this section must be sentenced and must serve a term of confinement in the manner provided in chapter 484 of NRS for a violation of NRS 484.379.

5. The provisions of this section apply only to that conduct which constitutes a misdemeanor under chapter 484 of NRS. Nothing contained in this section prevents the prosecution and conviction of a person under the NRS for a gross misdemeanor or felony based upon conduct which also violates the provisions of this section.

[Business Impact Note: The Board of County Commissioners hereby finds that this ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

Proposed on the 13th day of JANUARY, 2004.
Proposed by Commissioner SFERRAZZA.
Passed on the 27th day of JANUARY, 2004.

Vote:

Ayes: SHAW, WEBER, HUMKE, GALLOWAY

Nays: (NONE)

Absent: SFERRAZZA

James M. Shaw
Chairman
Washoe County Commission

ATTEST:

Amy Harvey
County Clerk

This ordinance shall be in force and effect from and after the 10th day of FEBRUARY, 2004.