

1 **BILL NO. 2008-59**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO UPDATE REMEDIES AND PROCEDURES PERTAINING TO
4 ENFORCEMENT OF THE CITY'S RIGHTS IN DRAINAGE EASEMENTS, AND TO PROVIDE
FOR OTHER RELATED MATTERS.

5 Sponsored by: Councilman Steven D. Ross

Summary: Updates remedies and procedures
pertaining to enforcement of the City's rights in
drainage easements.

7 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
8 AS FOLLOWS:

9 SECTION 1: Title 9, Chapter 4, Section 10, of the Municipal Code of the City of Las
10 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

11 **9.04.010:** As used in this Chapter, unless the context requires otherwise, the following terms shall
12 be defined as set forth in this Section.

13 "Authorized official" means an officer of the Las Vegas Metropolitan Police Department and
14 any person designated and empowered by ordinance, by the City Manager or by the District Health
15 Officer to enforce the provisions of Title 9.

16 "Chronic nuisance" means the existence of any of the following conditions:

17 (1) When three or more nuisance activities exist or have occurred during any
18 thirty-day period on a property;

19 (2) When a person associated with the property has engaged in three or more
20 nuisance activities during any thirty-day period on the property or within one hundred feet of the
21 property;

22 (3) When the property has been the subject of a search warrant based on probable
23 cause of continuous or repeated violations of NRS Chapter 459; or

24 (4) When a building or place is used for the purpose of unlawfully selling, serving,
25 storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor
26 as defined in NRS 453.086 or controlled substance analog as defined in NRS 453.043.

27 "Criminal activity" means any activity defined as a misdemeanor in the Las Vegas Municipal
28 Code or as a misdemeanor, gross misdemeanor or felony in NRS Title 15.

1 “Imminent hazard” means any condition associated with real property that places a person's
2 life, health or property in high risk of peril when such condition is immediate, impending, or on the
3 point of happening or menacing.

4 “Owner” means any person having a legal or equitable interest in real property within the City.
5 For purposes of providing notice under this Chapter to an owner of real property, the term also
6 includes any agent or representative of the owner, or any person who acts as a manager or collects
7 rents regarding that property.

8 “Person associated with the property” means a person who, on the occasion of a nuisance
9 activity, has:

- 10 (1) Entered, patronized or visited;
11 (2) Attempted to enter, patronize or visit; or
12 (3) Waited to enter, patronize or visit, a property or a person present on the
13 property.

14 “Public nuisance,” “nuisance,” or “nuisance activity” means any of the following conditions:

15 (1) Any area, structure or object which by its nature, location, or character would
16 tend to attract and endanger the safety of any minor person.

17 (2) Any violation of Title 16, including violations of the codes pertaining to
18 building, construction, housing, and fire safety adopted thereunder.

19 (3) Any body of water which by its nature or location constitutes an unhealthy or
20 unsafe condition, including any accumulation of stagnant water that has become or is likely to become
21 a breeding area for insects.

22 (4) Any refuse, waste, litter or other material, regardless of its market value, which,
23 by reason of its location or character, is unsightly or interferes with the reasonable use and enjoyment
24 of adjacent properties, has a detrimental effect upon adjacent property values, or would hamper or
25 interfere with the containment of fire upon the premises. Examples include, without limitation,
26 decaying or non-decaying solid and semi-solid wastes, whether or not combustible, such as old
27 lumber, tin, wire, cans, barrels, cartons, boxes, rags, tires, inner tubes, brush, grass and hedge
28 clippings, rocks, bricks, cinders, scrap iron, buckets, tubs, windows, screens, glass, bottles,

1 wastepaper, bedsprings, mattresses, discarded furniture and appliances, bedding and material cleaned
2 from animal or fowl pens, automobile parts, scrap paving material, and piles of earth mixed with other
3 waste material which may harbor insect or rodent infestations or may become a fire hazard.

4 (5) Any violation of Title 19 or Title 20 of this Code.

5 (6) Operating a business without a current license as required by Title 6.

6 (7) Any other act or condition, other than those permitted by NRS 40.140 and
7 202.450, which, by reason of its nature, character or location, interferes with the reasonable use and
8 enjoyment of adjacent properties, or which has a detrimental effect upon adjacent property values.

9 Such nuisances include without limitation the following:

10 (a) Weeds, turf grass, or uncultivated plant growth exceeding eight inches
11 in height, either on a vacant parcel or on a developed parcel at a location visible from public property;

12 (b) Dead trees, plants and other vegetation that present a fire hazard or are
13 otherwise a threat to property or to the health and safety of the public or a segment thereof;

14 (c) Graffiti, as defined in LVMC 10.48.060, that is allowed to remain for
15 more than twenty-four hours;

16 (d) Unpainted or painted buildings, walls, fences or other structures whose
17 condition has become so deteriorated as to create a hazardous condition; threaten collapse,
18 displacement, or other breakdown of structural integrity; permit decay, excessive cracking, peeling,
19 chalking, dry rot, warping or termite infestation; or create a condition of blight visible from public
20 right-of-way;

21 (e) Any vehicle that has been abandoned, or any vehicle in an obviously
22 mechanically inoperable condition, that:

23 (i) Is parked within a multifamily residential parking lot, in a
24 location that is visible from public property, including a street or alley;

25 (ii) Has been parked in the same location for more than seven
26 consecutive days;

27 (f) Criminal activity on any lot or premises within the City.

28 “Responsible party” means any tenant, occupant, lessor, lessee, manager, licensee or other

1 person having control over a structure or parcel of land in the City.

2 SECTION 2: Title 13, Chapter 32, Section 80, of the Municipal Code of the City of
3 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

4 **13.32.080:** (A) All unauthorized encroachments or obstructions upon any [street, public alley
5 or highway] public street or highway, public alley or public easement in the City, including abandoned
6 and unregistered motor vehicles, where provision for removal is not otherwise prescribed, shall be
7 removed by the City Manager, or his designee, and the cost of such removal shall be a debt to the City
8 and shall be paid prior to the release of the property or vehicle causing the encroachment or
9 obstruction. The Metropolitan Police Department shall report all such encroachments and obstructions
10 to the City Manager.

11 (B) The City Manager shall not cause the removal of any encroachment or
12 obstruction, including any abandoned or unregistered vehicle, as prescribed in Subsection (A) of this
13 Section, until he has given the owner of such property causing the obstruction or encroachment
14 twenty-four hours prior written notice to remove it. In the event the owner cannot be ascertained by
15 reasonable efforts, the written notice shall be attached to or posted on the obstruction or encroachment
16 and the period of notification shall begin to run upon such posting.

17 SECTION 3: Title 20, Chapter 4, Section 50, of the Municipal Code of the City of
18 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

19 **20.04.050:** (A) It is unlawful for anyone to construct, erect or place any building, structure or
20 improvement on any land within any proposed or existing flood control channel as set forth on the
21 Master Plan of Flood Control Channels Map, excepting, however, when conduit is used instead of an
22 open channel, the City Council upon recommendation of the Planning Commission may allow
23 buildings, structures, or other improvements above the area occupied by the conduit.

24 (B) Except as authorized by the Director of Public Works, it is unlawful to do any
25 of the following with respect to a drainage easement that runs in favor of the City or another
26 governmental entity:

27 (1) Place or erect any structure within the boundaries of the
28 easement; or

1 (2) Deposit or place any object or material that encroaches upon the
2 easement.

3 (C) Except as authorized by the Director of Public Works, it is unlawful for the
4 owner of property subject to a drainage easement that runs in favor of the City or another
5 governmental entity to:

6 (1) Knowingly permit the placement of a structure within the boundaries
7 of the easement;

8 (2) Knowingly permit the deposit or placement of any object or material
9 that encroaches upon the easement; or

10 (3) Fail to remove any such structure, object or material, upon notice by the
11 City to do so, within the time period specified by the notice.

12 (D) A violation of this Section or any other provision of this Title constitutes a
13 public nuisance.

14 SECTION 4: Title 20, Chapter 8, Section 140, of the Municipal Code of the City of
15 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

16 **20.08.140:** The Director of Public Works is [hereby appointed to administer and implement]
17 responsible for the implementation, administration and enforcement of this Chapter. Whenever the
18 provisions of this Chapter refer to the Director of Public Works, that reference includes the Director's
19 designee. The Director, with the approval of the City Manager, may authorize employees of other
20 departments to enforce any or all provisions of this Title.

21 SECTION 5: If any section, subsection, subdivision, paragraph, sentence, clause or
22 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
23 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
24 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
25 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
26 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
27 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
28 invalid or ineffective.

1 SECTION 6: Whenever in this ordinance any act is prohibited or is made or declared
2 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
3 required or the failure to do any act is made or declared to be unlawful or an offense or a
4 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
5 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
6 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
7 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

8 SECTION 7: All ordinances or parts of ordinances or sections, subsections, phrases,
9 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
10 1983 Edition, in conflict herewith are hereby repealed.

11 PASSED, ADOPTED and APPROVED this _____ day of _____, 2009.

12 APPROVED:

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14 By _____
OSCAR B. GOODMAN, Mayor

15 ATTEST:

16 _____
17 BEVERLY K. BRIDGES, CMC
City Clerk

18 APPROVED AS TO FORM:

19 Val Steel 12-3-08
20 _____
Date

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1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2008, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2009, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

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APPROVED:

By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

BEVERLY K. BRIDGES, CMC
City Clerk